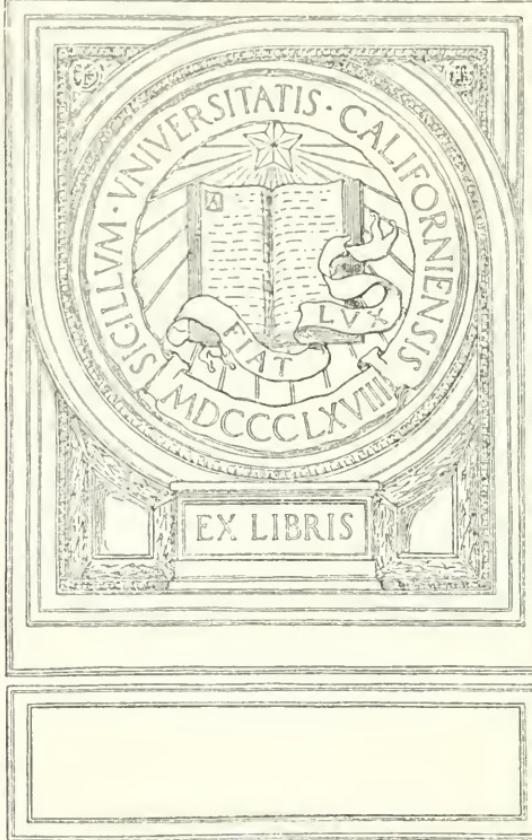


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HISTORY OF THE STATE OF MAINE

VOL. VIII.

CONTAINING

THE FARNHAM PAPERS

1698—1871

COMPILED

BY MISS MARY FRANCES FARNHAM

MEMBER OF THE OREGON HISTORICAL SOCIETY AND OF  
THE AMERICAN HISTORICAL SOCIETY

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# DOCUMENTS RELATING TO THE Territorial History of Maine.

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## XCIV.

RATIFICATION OF THE GRANT TO SIEUR DE LA MOTHE CADILLAC BY LOUIS XIV. OF FRANCE.

MAY 24,  
JUNE 3, 1689.

### *Sources.*

The grant of Mt. Desert to Sieur de la Mothe Cadillac,  
July 23, August 2, 1688, was ratified by Louis XIV. of France May 24, June 3, 1689.

The ratification is printed with other documents in "Return to an Address at the Bar of the Legislative Assembly of Canada by Christopher Dunkin, advocate, in behalf of certain proprietors of Seigniories of Lower Canada." The "Return" is in "Journals of the Legislative Assembly of the Province of Canada" (1852, 1853), XI., Appendix H. H. H. The text is also in French in "Réponse à Une Addresse . . ." (1853), 39. A set of the "Legislative Documents of the Province of Canada" is in the State Library of Massachusetts. As no other English text of the ratification has been found this reprint is from "Journals of the Legislative Assembly," which is from the "Register of the Superior Council," Letter B, fol. 89.

### *Text.*

Dated the 24<sup>th</sup> May, 1689.

This twenty-fourth day of the month of May, one thousand six hundred and eighty-nine, the King being at

Versailles, and wishing to confirm and ratify the grants made in his His Majesty's name of the lands granted in Canada by his Governors and Intendants in the said country, His Majesty hath confirmed and ratified and doth confirm and ratify the grant made to the Sieur Lamothe Cadillac, on the twentieth of May of the last year, one thousand six hundred and eighty-eight, by the Sieur de Denonville, Governor, and by the Sieur de Champigny, Intendant of the said country, of the place called Doüaquet, near Mageis in the dependancy of Acadia, of two leagues in front of the seaside, by two leagues in depth, divided in the middle by the River Doüaquet which is not comprised in the grant—to hold to the said Sieur Lamothe Cadillac, his heirs and assigns forever as their property (*comme de leur propre,*) with right of superior, mean and inferior jurisdiction, as stated in the said grant, and without its being requisite on the part of the said Sieur Lamothe Cadillac, his heirs or assigns, to pay to His Majesty, or to the Kings his successors, any sum of money or indemnity, His Majesty being pleased to remit the same, in virtue of the present Letters Patent, to whatever sum it may amount, although the value of the present grant be not herein stated. His Majesty doth command the Governors and Intendants of the said country to maintain the said Sieur de Lamothe Cadillac, his heirs and assigns, in the full, peaceable and perpetual enjoyment of the land granted by the said grant, and doth also command the officers of the Sovereign Council of the said country to see thereto, and to enregister the present Letters Patent, which His Majesty in testimony of his will, hath been pleased to sign and have countersigned by me his Councillor, Secretary of State, and of his Commands and Finance.

(Signed,) LOUIS.

(Signed,) COLBERT.

## XCV.

EXTRACTS FROM THE CHARTER OF MASSACHUSETTS  
BAY, BY WILLIAM AND MARY OF ENGLAND.

OCTOBER 7/17, 1691.

*Sources.*

The revolution in New England in 1689, which deposed Sir Edmund Andros, established a provisional government of brief duration. October 7/17, 1691, William and Mary issued a new charter, which incorporated, under the "Province of Massachusetts Bay," Massachusetts, New Plymouth, Maine, Pemaquid, and Nova Scotia. The union of Maine with Massachusetts continued until the erection of the "District of Maine" into an independent state. With the consolidation of government the names of Cornwall and Devonshire disappeared, and Yorkshire shared equal privileges with Suffolk and Middlesex.

The "Province Charter" was brought over by Sir William Phips, who was by royal appointment the first governor under the new charter. The original document is in the State House under the custody of the secretary of state for Massachusetts. It is longer in point of text than any other charter issued by the British crown, and was so carefully drawn that it served, with certain modifications, as a model for the earlier state constitutions.

The charter of William and Mary was first printed by Daniel Neal, "History of New-England, containing an Impartial Account of the Civil and Ecclesiastical Affairs of the Country to the Year of our Lord 1700" (London, 1720), II., Appendix I., 617-642; also second edition of the same (London, 1747), II., Appendix II., 258-288. It was printed both in English and in French, from "Acts and Laws of Massachusetts Bay" (London, 1724), in "Mémoires des Commissaires du Roi et de ceux de sa Majesté Britannique, sur les possessions et les Droits respectifs des deux Couronnes en Amérique" (Paris, 1755), II., 593-641. It is in "The Charters of the British Colonies

in America" (printed for J. Almar, London, 1775), 1-23; In "Masère Papers," or "Occasional Essays on Various Subjects, chiefly Political and Historical" (London, 1809), 93-124; also in Ben: Perley Poore, "The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the United States" (Washington, 1877), 942-954; and, from "Masonian Papers," IV., 145, it is printed by Albert Stillman Batchellor, editor, "Provincial Papers of New Hampshire" (Manchester, 1891), XIX., 334-354. A transcript from a copy in the Chapel of the Rolls, London, was printed in a "Statement on the Part of the United States, of the case referred, under the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix XIII., 109-122. A transcript from the charter was prefixed to "The Acts and Resolves, public and private, of the Province of the Massachusetts Bay," printed by Ellis Ames and Abner Cheney Goodell, compilers, Boston, 1869-92, 7 vols.

The text adopted is the printed form in "Acts and Resolves," I., 1-20.

*Text.*

WILLIAM & MARY BY THE GRACE of God King and Queen of England Scotland France and Ireland Defenders of the Faith &c. To ALL to whome these presents shall come Greeting . . . AND WHEREAS in the Terme of the holy Trinity in the Thirty Sixth yeare of the Reigne of Our dearest Vnkle King Charles the Second a Judgement was given in Our Court of Chancery then sitting at Westminster vpon a Writt of Scire Facias brought and prosecuted in the said Court against the Governour and Company of the Massachusetts Bay in New England that the said Letters Patents of Our said Royall Grandfather King Charles the First bearing date at Westminster the Fourth day of March in the Fourth yeare of his Reigne made and granted to the said Governour and Company of the Massachusetts Bay in New England and the Enrollment of the same should be cancelled vacated and annihilated and should be brought into the said

Court to be cancelled (as in and by the said Judgment remaining vpon Record in the said Court doth more at large appeare) AND WHEREAS severall persons employed as Agents in behalfe of Our said Collony of the Massachusetts Bay in New England have made their humble application vnto Vs that Wee would be graciously pleased by Our Royall Charter to Incorporate Our Subjects in Our said Collony and to grant and to confirme vnto them such powers priviledges and Franchises as [in] Our Royall Wisdome should be thought most conduceing to Our Interest and Service and to the Welfare and happy state of Our Subjects in New England and Wee being graciously pleased to gratifie Our said Subjects And alsoe to the end Our good Subjects within Our Collony of New Plymouth in New England aforesaid may be brought vnder such a forme of Government as may put them in a better Condiōn of defence and considering aswell the granting vnto them as vnto Our Subjects in the said Collony of the Massachusetts Bay Our Royall Charter with reasonable Powers and Priviledges will much tend not only to the safety but to the flourishing estate of Our Subjects in the said parts of New England and alsoe to the advanceing of the ends for which the said Plantaōns were at first encouraged of Our especiall Grace certaine knowledge and meer Moōon have willed and ordeyned and Wee doe by these presents for Vs Our Heires and Successors Will and Ordeyne that the Territories and Collonyes comonly called or known by the names of the Collony of the Massachusetts Bay and Collony of New Plymouth the Province of Main the Territorie called Accadìa or Nova Scotia and all that Tract of Land lying betweene the said Territories of Nova Scotia and the said Province of Main be Erected Vnited and Incorporated And Wee doe by these presents Vnite Erect and Incorporate the same into One reall Province by the Name of Our Province of

the Massachusetts Bay in New England And of Our especial Grace certaine knowledge and meer mōcon Wee have given and granted and by these presents for Vs Our Heires and Successors doe give and grant vnto Our good Subjects the Inhabitants of Our said Province or Territory of the Massachusetts Bay and their Successors all that parte of New England in America lying and extending from the greate River cōmonly called Monomack aſt Merrimack on the Northpart and from three Miles Northward of the said River to the Atlantick or Western Sea or Ocean on the South part And all the Lands and Hereditaments whatso- ever lying within the limitts aforesaid and extending as farr as the Outermost Points or Promontories of Land called Cape Cod and Cape Mallabar North and South and in Latitude Breadth and in Length and Longitude of and within all the Breadth and Compass aforesaid throughout the Main Land there from the said Atlantick or Western Sea and Ocean on the East parte towards the South Sea or Westward as far as Our Collonyes of Rhode Island Connecticutt and the Marragansett Countrey all alsoe all that part or por̄eon of Main Land beginning at the Entrance of Pescata way Harbour and soe to pass vpp the same into the River of Newickewannock and through the same into the furthest head thereof and from thence Northwestward till One Hundred and Twenty Miles\* aforesaid to crosse over Land to the One Hundred and Twenty Miles before reckoned vp into the Land from Piscataway Harbour through Newick- annock River and alsoe the North halfe of the Isles and Shoales together with the Isles of Cappawock and Nantukett

\*The descriptive terms of the Maine boundary were probably copied from the Gorges charter, with the exception of the following clause, which should be supplied to make the limits clearly understood: "be finished, and from Piscataqua Harbour Mouth aforesaid North-Eastward along the Sea Coast to Sagadahoe & up the River thereof to Kynnybequey River & thro the same unto the head thereof & unto the Land Northwestward untill One hundred & twenty Miles be ended being accounted from the Mouth of Sagadahoc & from the Period of One hundred & twenty miles."

near Cape Cod aforesaid alsoe [all] Lands and Hereditaments lying and being in the Countrey and Territory comonly called Accadia or Nova Scotia And all those Lands and Hereditaments lying and extending between the said Country or Territory of Nova Scotia and the said River of Sagadahock or any part thereof And all Lands Grounds &c . . . And Wee doe further for Vs Our Heires and Successors Will Establish and ordeyne that from henceforth for ever there shall be one Governour One Leivtent or Deputy Governour and one Secretary of Our said Province or Territory to be from time to time appointed and Commissionated by Vs Our Heires and Successors and Eight and Twenty Assistants or Councillors to be advising and assisting to the Governour of Our said Province or Territory for the time being as by these presents is hereafter directed and appointed which said Councillors or Assistants are to be Constituted Elected and Chosen in such forme and manner as hereafter in these presents is expressed . . . AND FURTHER Wee will and by these presents for Vs Our Heires and Successors doe ordeyne and Grant that there shall and may be convened held and kept by the Governour for the time being vpon every last Wednesday in the Moneth of May every yeare for ever and at all such other times as the Governour of Our said Province shall think fitt and appoint a great and Generall Court of Assembly which said Great and Generall Court of Assembly shall consist of the Governour and Councill or Assistants for the time being and of such Freeholders of Our said Province or Territory as shall be from time to time elected or deputed by the Major parte of the Freeholders and other Inhabitants of the respective Townes or Places who shall be present at such Eleccons Each of the said Townes and Places being hereby impowered to Elect and Depute Two Persons and noe more to serve for and represent them respectively in the said Great and

Generall Court or Assembly To which Great and Generall Court or Assembly to be held as aforesaid Wee doe hereby for Vs Our Heires and Successors give and grant full power and authority from time to time to direct appoint and declare what Number each County Towne and Place shall Elect and Depute to serve for and represent them respectively in the said Great and Generall Court or Assembly PROVIDED alwayes that noe Freeholder or other Person shall have a Vote in the Eleccon of members to serve in any Greate and Generall Court or Assembly to be held as aforesaid who at the time of such Eleccon shall not have an estate of Freehold in Land within Our said Province or Territory to the value of Forty Shillings per Annū at the least or other estate to the value of Forty pounds Sterl' And that every Person who shall be soe elected shall before he sitt or Aet in the said Great and Generall Court or Assembly take the Oaths menconed in an Act of Parliament made in the first yeare of Our Reigne Entituled an Act for abrogateing of the Oaths of Allegiance and Supremacy appointing other Oaths and thereby appointed to be taken instead of the Oaths of Allegiance and Supremacy and shall make Repeat and Subscribe the Declaracon menconed in the said Act before the Governour and Leivtent<sup>t</sup> or Deputy Governour or any two of the Assistants for the time being who shall be therenvnto authorized and Appointed by Our said Governour and that the Governour for the time being shall have full power and Authority from time to time as he shall Judge necessary to adjourne Prorogue and dissolve all Great and Generall Courts or Assemblies met and convened as aforesaid And Our Will and Pleasure is and Wee doe hereby for Vs Our Heires and Successors Grant Establish and Ordeyne that yearly once in every yeare for ever hereafter the aforesaid Number of Eight and Twenty Councillors or Assistants shall be by the Generall Court or Assembly newly chosen

that is to say Eighteen at least of the Inhabitants of or Proprietors of Lands within the Territory formerly called the Collony of the Massachusetts Bay and four at the least of the Inhabitants of or Proprietors of Lands within the Territory formerly called New Plymouth and three at the least of the Inhabitants of or Proprietors of Land within the Territory formerly called the Province of Main and one at the least of the Inhabitants of or Proprietors of Land within the Territory lying between the River of Sagadahoc and Nova Scotia . . .

PROVIDED alsoe that it shall and may be Lawfull for the said Governor and Generall Assembly to make or passe any Grant of Lands lying within the Bounds of the Colonys formerly called the Collony of the Massachusetts Bay and New Plymouth and province of Main in such manner as heretofore they might have done by vertue of any former Charter or Letters Patents which grants of lands within the Bounds aforesaid Wee doe hereby Will and ordaine to be and continue for ever of full force and effect without our further Aprobation or Consent AND soe as Neverthelesse and it is Our Royall Will and Pleasure That noe Grant or Grants of any Lands lying or extending from the River of Sagadehock to the Gulph of St Laurence and Canada Rivers and to the Main Sea Northward and Eastward to be made or past by the Governor and Generall Assembly of our said Province be of any force validity or Effect vntill Wee Our Heires and Successors shall have signified Our or their Approbacon of the same . . .

AND FURTHER Our expresse Will and Pleasure is And Wee doe by these presents for Vs Our Heires and Successors Ordaine and appoint that these Our Letters Patents shall not in any manner Enure or be taken to abridge bar or hinder any of Our loveing Subjects whatsoeuer to vse and exercise the Trade of Fishing vpon the Coasts of New

England but that they and every of them shall have full and free power and Libertie to continue and vse their said Trade of Fishing vpon the said Coasts in any of the seas therevnto adjoyning or any Arms of the said Seas or Salt Water Rivers where they have been wont to fish and to build and set vpon the Lands within Our said Province or Collony lying wast and not then possesst by Perticular Proprietors such Wharfes Stages and Workhouses as shall be necessary for the salting drying keeping and packing of their Fish to be taken or gotten vpon that Coast And to Cutt down and take such Trees and other Materialls there growing or being or growing vpon any parts or places lying wast and not then in possession of particuler proprietors as shall be needfull for that purpose and for all other necessary easments helps and advantages concerning the Trade of Fishing there in such manner and forme as they have been heretofore at any time accustomed to doe without makeing any Wilfull Wast or Spoile any thing in these presents conteyned to the contrary notwithstanding **AND LASTLY** for the better provideing and furnishing of Masts for Our Royall Navy Wee doe hereby reserve to Vs Our Heires and Successors all Trees of the Diameter of Twenty Four Inches and vpwards of Twelve Inches from the ground growing vpon any Soyle or Tract of Land within Our said Province or Territory not heretofore granted to any private persons And Wee doe restraine and forbid all persons whatsoever from felling cutting or destroying any such Trees without the Royall Lycence of Vs Our Heires and Successors first had and obteyned vpon penalty of Forfeiting One Hundred Pounds sterlind vnto Ous Our Heires and Successors for every such Tree soe felled cutt or destroyed without such Lycence had and obteyned in that behalfe any thing in these presents conteyned to the contrary in any wise Notwithstanding **IN WITNESSE** whereof Wee have caused these our Letters to be

made Patents WITNESSE Ourselves att Westminster the Seaventh Day of October in the Third yeare of Our Reigne

By Writt of Privy Seale

PIGOTT

*Pro Fine in Hanaperio quadragint Marcas*

J. TREVOR C. S.

W. RAWLINSON C. S.

G. HUTCHINS C. S.

---

XCVI.

COVENANT OF LANDS WITH SIR WILLIAM PHIPS,  
BY MADOKAWANDO, SAGAMORE OF PENOBCOT.

MAY 9/19, 1694.

*Sources.*

By the covenant of lands with Sir William Phips, governor of the Province of Massachusetts, Madokawando, sagamore of Penobscot, released lands on both sides of the St. Georges River, which were finally incorporated with the Waldo patent under the "Ten Proprietors." The deed of conveyance was made at Pemaquid, May 9/19, 1694, and was recorded at York, January 17/28, 1721/2, with other papers relating to the original Muscongus grant.

Madokawando is an important character in the history of eastern Maine, both as father-in-law of Castine and because of his own position as sagamore of Penobscot. Of this conveyance to Governor Phips it is said that some of the Penobscots denied the authority of their chief to make such a transfer of lands; nevertheless the purchase of the title of Spencer Phips, heir of Governor Phips, by President Leverett of Harvard College, who was a proprietor of the Muscongus grant established the legality of the claim.<sup>1</sup>

The text adopted is that of "York Deeds," X., folios 237, 238.

*Text.*

Province Massachusetts Bay Nov Anglia

To. all. People unto whom this present Deed of Sale  
Shall or May Come Madokowando, Sangamore of Penob-  
scott within y<sup>e</sup> eastarn Parts of this. Province. Sendeth  
Greeting. Know ye y<sup>t</sup> I y<sup>e</sup> S<sup>d</sup> Madokowando for a valuable  
Consideration to me in hand p<sup>d</sup> before & at y<sup>e</sup> Ensealing &  
delivery of these Presents by his Excellency S<sup>r</sup> William  
Phipps Kn<sup>t</sup> y<sup>e</sup> Rec<sup>t</sup> whereof is hereby acknowledged &  
thereof & of every part & parcell thereof do fully Clearly  
& absolutely acquit Exonerate & forever Discharge him y<sup>s</sup>  
S<sup>d</sup> S<sup>r</sup> William Phipps Jun<sup>r</sup> his heirs Executors or Adminis-  
trators Have given granted Released Confirmed Enfieffed  
aliened Sett over bargained & Sold as by these presents I do  
give grant release Confirm Enfieffie Aliene Sett over bar-  
gaine & Sell unto his Excellency S<sup>r</sup> W<sup>im</sup> Phipps Kn<sup>t</sup>  
afores<sup>d</sup> his heirs & assigns all y<sup>t</sup> parcell parcels of land  
lying & being on both sides of y<sup>e</sup> river Commonly Called &  
known by y<sup>e</sup> Name of St Georges River in y<sup>e</sup> eastern part  
of this Province aboves<sup>d</sup> bounded to y<sup>e</sup> Eastward Wess-  
wesskek River to y<sup>e</sup> westward by y<sup>e</sup> West side of Cove  
Island & so by a Straight line in y<sup>e</sup> Country as high as y<sup>e</sup>  
uppermost Falls of St Georges River afores<sup>d</sup> as also a Cer-  
tain Island lying before y<sup>e</sup> mouth of y<sup>e</sup> S<sup>d</sup> River Called &  
known by y<sup>e</sup> Name of Matomquoog together with all y<sup>e</sup>  
Islands Commonly Called & known by y<sup>e</sup> Name of St  
Georges Islands Together with all y<sup>e</sup> River Isletts. Mines  
Mineralls waters. Water Courses Rivoletts Creeks Ponds  
Fountains Wells Springs Falls Standing Waters Brooks  
Marshes Swamps Meadows both fresh & Salt trees woods  
uplands Stones Rocks & all other Profitts Comodityes &  
appurtenances whatsoever to y<sup>e</sup> S<sup>d</sup> River Islands Isletts  
Mines Mineralls waters Water Courses Rivoletts Creeks

Ponds fountains Wells Springs fall Standing waters Brooks Marshes Swamps & meadows both fresh & Salt. Trees woods uplands Stones & Rocks belonging or in any wise appertaining To Have & To Hold y<sup>e</sup> S<sup>d</sup> River Islands Isletts Mines Mineralls waters watercourses Rivoletts Creeks Ponds Fountains Wells Springs Falls Standing waters Brooks Marshes Swamps & Medows both Fresh & Salt Trees woods uplands Stones & Rocks & all other y<sup>e</sup> Profitts Comodityes & appurtenances whatsoever, to y<sup>e</sup> Same belonging or in any wise appertaining unto his S<sup>d</sup> Exelency S<sup>r</sup> William Phipps Kn<sup>t</sup> his heirs & assigns unto y<sup>e</sup> only Sole & Proper use & behoof of him y<sup>e</sup> S<sup>d</sup> S<sup>r</sup> William Phipps Kn<sup>t</sup> his heirs & assigns forever in a free & absolute Right thereof & of all & every part & parcell thereof to dispose of as of his or their own proper goods & Chattels without any Incumbrance lett Hindrance trouble or Mollestation whatsoever from him y<sup>e</sup> S<sup>d</sup> Madokowando his heirs or assigns & y<sup>e</sup> S<sup>d</sup> Madokowando doth Covenant Promise & agree to & with his Exelency S<sup>r</sup> William Phipp Kn<sup>t</sup> his heirs & assigns y<sup>t</sup> he y<sup>e</sup> S<sup>d</sup> Madokawando being y<sup>e</sup> Only true & lawfull Owner of all & Singular y<sup>e</sup> Bargained pmisses & of every part & parcell thereof hath in himself full power good Right & lawfull Athority thereof & of every part & peell thereof to dispose, give grant Release Confirme enfeoffie aliene Sett Over Bargaine & Sell which he doth by these presents freely Clearly & absolutely without any manner of Constraint or former Bargains Ingagements gifts or grants Excepting y<sup>e</sup> Valluable Consideration aboves<sup>d</sup> dispose of, gives grants Releases Confirms Enfeoffes Alienes Sett over bargaines & Sells unto y<sup>e</sup> S<sup>d</sup> S<sup>r</sup> William Phipps, his heirs & assigns forever Covenanting & hereby promising for himself & assigns, unto y<sup>e</sup> S<sup>d</sup> S<sup>r</sup> William Phipps Kn<sup>t</sup> his heirs & assigns y<sup>e</sup> afore Mentioned pmesses with all & Singular

their appurtenances from henceforth Now & forever hereafter, Shall & will defend make Sure & Confirm unto y<sup>e</sup> S<sup>d</sup> S<sup>r</sup> W<sup>m</sup> Phipps Kn<sup>t</sup> his heirs & assigns from all every or any Claims pretences or demands to y<sup>e</sup> Premisses or any part thereof by any person or persons whatsoever In Wittness whereof y<sup>e</sup> S<sup>d</sup> Madokowando hath hereunto Sett his hand & affixed his Seal at Pemaquid y<sup>e</sup> Ninth Day of May in y<sup>e</sup> Sixth Year of y<sup>e</sup> Reign of Our Soveraign Lord & Lady William & Mary of England Scotland France & Irland King & Queen Defenders of the faith &c Annoq<sup>b</sup> Domini 1694

( seal ) The Mark of  Madokowando  
Sangomore of Penobscot

Signed Sealed & Delivered

In the Presence of

The Mark of

Edger Emet  Sangomore of Kennebeck

The  Mark of Wenemoct Cozinto

Madokowando

The  Mark of }  
John Sangomore of } Interpreter.  
Sheepsgutt River

John March

David Mason

John White

John Phillips

John Hornebrook Interpr<sup>r</sup>ter

Abra<sup>m</sup> Gouverneur

Pemaquid the 10<sup>th</sup> May 1694 Then appeared before us the Subscribers Two of the Members of their Majesties Counsell the within Named Madokowando & did then &

there declare & acknowledge y<sup>e</sup> within Instrument to be his  
Voluntary act & Deed

John Phillips

Silvanus Davis

Recorded according to y<sup>e</sup> Origanall Jan<sup>ry</sup> 17<sup>th</sup> 1721:

Abra<sup>m</sup> Preble Reg<sup>r</sup>

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## XCVII.

### EXTRACTS FROM COMMISSION ESTABLISHING A BOARD OF TRADE, BY WILLIAM III. OF ENGLAND.

MAY 15/25, 1696.

#### *Sources.*

The commission of William III. for establishing a Board of Trade was given at Westminster, May 15/25, 1696. Although the new Board of Trade which took the place of the Plantation Committee of the Privy Council had the avowed object of promoting trade and improving the plantations, it was really created to subserve private interests; and it became a constant source of annoyance to the colonies, until its functions ceased with the Revolution. The continuance of Edward Randolph as surveyor-general of His Majesty's customs in America did not render its surveillance any more agreeable.

Because the Board of Trade separated Nova Scotia from Massachusetts Bay extracts are included in this compilation. The commission is in the records of the Privy Council, "Journal," IX., 1, from which source it is printed by Edmund Bailey O'Callaghan, editor, "Documents relative to the Colonial History of the State of New York" (Albany, 1854), IV., 145-148, which is the text adopted for these extracts.

*Text.*

WILLIAM the Third by the Grace of God King of England, Scotland, France and Ireland, Defender of the Faith &a. To our Keeper of oure Great Seale of England or Chancellor of England for the time being [and others] . . .

Greeting :

Whereas We are extreamly desirous that the Trade of Our Kingdom of England, upon which the strength and riches thereof do in a great measure depend, should by all proper means be promoted and advanced; And Whereas We are perswaded that nothing will more effectually contribute thereto than the appointing of knowing and fitt persons to inspect and examin into the general Trade of our said Kingdom and the severall parts thereof, and to enquire into the severall matters and things herein after mentioned relating thereunto, with such Powers and Directions as are herein after specified and contained.

KNO WYEE therefor that We reposing espetiall Trust and Confidence in your Discretions, Abilityes and Integrities, Have nominated, authorized and constituted, and do by these presents nominate authorize and appoint the said Keeper of Our Great Seale or Chaneclor for the time being, the President of Our Privy Council for the time being, The Keeper of our Privy Seale for the time being, The first Commissioner of Our Treasury or Treasurer for the time being, The First Commissioner for executing the Office of Admirall and Our Admirall for the time being, Our Principall Secretarys of State for the time being, And Our Chancellor of the Exchequer for the time being, And you John Earl of Bridgewater, Ford Earl of Tankerville, Sir Philip Meadows, William Blathwayte, John Pollexfen, John Locke, Abraham Hill, and John Methwen, or any other three or more of you, to be Our Commissioners during our Royal Pleasure, for premoting the Trade of our

Kingdome, and for Inspecting and Improving our Plantations in America and elsewhere.

And to the end that Our Royall purpose and intention herein may the better take effect OUR WILL and PLEASURE is, and We do hereby order, direct and appoint, That you do diligently and constantly as the nature of the service may require, meet togeather at some convenient Place in Our Palace of Whitehall which we shall assigne for that purpose, or at any other place which we shall appoint for the execution of this Our Commission. . . .

AND OUR FURTHER WILL AND PLEASURE is, that you Our said Commissioners, or any Five or more of you, do from time to time make representations touching the Premisses to Us, or to Our Privy Council, as the nature of the Business shall require, which said Representations are to be in writing, and to be signed by Five or more of you.

And We do hereby further Impower and require you Our said Commissioners to take into your care all Records, Grants and Papers remaining in the Plantation Office or thereunto belonging.

And likewise to inform your selves of the present conditio[n] of Our respective Plantations, as well with regard to the Administration of the Government and Justice in those places, as in relation to the Commerce thereof; And also to inquire into the Limits of Soyle and Product of Our severall Plantations and how the same may be improved, and the best means for easing and securing Our Colonies there, and how the same may be rendred most usefull and beneficiale to our said Kingdom of England.

And we do hereby further impower and require you Our said Commissioners, more particularly and in a principal manner to inform yourselves what Navall Stores may be furnished from Our Plantations, and in what Quantities, and by what methods Our Royall purpose of having our Kingdom

supplied with Navall Stores from thence may be made practicable and promoted; And also to inquire into and inform your selves of the best and most proper methods of settling and improving in Our Plantations, such other Staples and other Manufactures as Our subjects of England are now obliged to feteh and supply themselves witball from other Princes and States; And also what Staples and Manufactures may be best encouraged there, and what Trades are taken up and exercised there, which are or may prove prejudicialell to England, by furnishing themselves or other Our Colonies with what has been usually supplied from England; And to finde out proper means of diverting them from such Trades, and whatsoever else may turne to the hurt of Our Kingdom of England.

And to examin and looke into the usuall Instructions given to the Governors of Our Plantations, and to see if any thing may be added, omitted or changed therein to advantage; To take an Account yearly by way of Journall of the Administration of Our Governors there, and to draw out what is proper to be observed and represented unto Us; And as often as occasion shall require to consider of proper persons to be Governors or Deputy Governors or to be of Our Councell or of Our Councell at Law, or Secretarys in Our respective Plantations, in order to present their names to Us in Councell.

And We do hereby further Authorize and impower you Our said Commissioners, to examin into and weigh such Acts of the Assemblies of the Plantations respectively as shall from time to time be sent or transmitted hither for Our Approbation; And to set down and represent as aforesaid the Usefulness or Mischeif thereof to Our Crown, and to Our said Kingdom of England, or to the Plantations themselves, in case the same should be established for Lawes there; And also to consider what matters may be

recommended as fitt to be passed in the Assemblies there, To heare complaints of Oppressions and maleadministra-  
tions, in Our Plantations, in order to represent as aforesaid what you in your Discretions shall thinke proper; And also to require an Account of all Monies given for Publick uses by the Assemblies in Our Plantations and how the same are and have been expended or laid out.

And We do by these Presents Authorize and impower you Our said Commissioners or any Three of you, to send for Persons and Papers, for your better Information in the Premisses; and as Occasion shall require to examin Witnesses upon Oath, which Oath you are hereby impowred to Administer in order to the matters aforesaid.

. . . IN WITNESS whereof We have caused these Our letters to be made Patents, Witness Thomas Archbishop of Canterbury, and the rest of the Guardians and Justices of the Realm. At Wesminster the Fifteenth day of May in the Eighth yeare of Our Reigne

By Writt of Privy Seale  
CHUTE.

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### XCVIII.

#### REPORT IN FAVOR OF A CAPTAIN-GENERAL FOR THE COLONIES, BY THE BOARD OF TRADE.

FEBRUARY 25  
MARCH 7, 1696/7.

##### *Sources.*

The request of the colony of Massachusetts Bay for a union of colonies in the prosecution of the French and Indian War led to an investigation by the Board of Trade.

The report is inserted in this compilation because it shows the intimate relation of the colonies at the time when Captain Chubb had surrendered Pemaquid to the French.

A valuable study on the Board of Trade and its influence on New England History is by John Andrew Doyle, "The English in America, Puritan Colonies," II., ch. vii. The original report is in "New England Entries, Board of Trade," A, 134, and is printed by Edmund Bailey O'Cal laghan, editor, "Documents relative to the Colonial History of the State of New-York" (Albany, 1854), IV., 259-261, which is the source adopted for this compilation.

*Text.*

TO THE KING'S MOST EXCELLENT MAJESTY

May it please your Majesty

In obedience to your Majesty's Order in Council dated the 10<sup>th</sup> of December last, we having taken into consideration the Representation of your Majesty's Lieutenant Governor, Councill and Assembly of the Massachusetts Bay in New England thereunto annexed, humbly praying that your Majesty's severall governments within those territories may be jointly concerned in the prosecution of the war and supporting the charge thereof; and having at the same time received severall memorials from the Agents of that Province here, and from other persons concerned both in that and the neighbouring colonies relating to an Union proposed to be made amongst them for common defence; we humbly beg leave to lay before Your Majesty the state of what has been offered to us upon that subject.

The importance and advantages of an Union for mutual defence and common security are by all sides agreed on; but the objections against the methods proposed for putting it in execution are various, according to the different interests of those by whom they are made.

The proposition chiefly insisted on in the forementioned Memorials is that the person whom Your Majesty shall be

pleased to send Governoour of the Massachusetts Colony may also be the Civil Governoour of New York and New Hampshire and Generall of all the Forces of the Massachusetts New York and New Hampshire Connecticutt, Rhode Island and the Jerseys.

But to this the agent of Connecticut here (In the name of the Governoour and Company of that Colony) has objected, that the imposing even a Military Governor over them, with power to demand men ammunition and pro-visious, and to lead and carry their men at the pleasure of the said General, out of the said Colony, without consent and advice of the said Governoour and Company, will be hard on the inhabitants, and (as they conceive) contrary to their charter.

The proprietor of New Hampshire (who by your Majesties appointment is the present Governoour thereof) has also objected to us his reasons against the subjecting of that Province to the Government of the Massachusetts; as tending to increase a charge upon the inhabitants there, without any addition to their security, and without any appearance (as he argues) of assurance to your Majesty that the government of the said Province will be better administered by strangers than by the said Proprietor and the inhabitants themselves.

The Agents of New York have more particularly than others opposed the Union of that Province and the Massachusetts under one Civill Governor by these following considerations:—The nearest limits of those Provinces (say they) are two hundred miles distant from one another, Connecticut and Rhode Island lye between them, New York being the less both in bounds and strength & being most exposed to the enemy, is incapable of giving any assistance to the Massachusetts in time of danger, the towns of New Yorke & Boston having been always rivalls in

trade, this Union would (in that respect) be very prejudicall to the former. The residence of the Governour of New Yorke at Boston would oblige the inhabitants of New Yorke to repaire thither, upon many occasions relating to the Civill Administration, and be very grievous and burdensome to them. The Sallary of the Governer of New York being paid out of certain funds raised by the General Assembly of that Province for a limited time, and expended by him amongst them, it would seem a hardship to them if that money should be issued out of the Province for the support of the Governour residing at Boston.

To which the forementioned Agents of the Massachusets have answered : — that the distance between the territories of New Yorke and the Massachusets is much lesse than the Agents of New York have represented it, and that the inconveniencies by them said to be consequential of the residence of a Governor at Boston, may be avoided by his removall sometimes (as occasion shall require) to New Yorke, and at other times by having constantly a Deputy there. But what they finally pray is, that the advantage of a Military Head or Captain Generall being agreed to, Your Majesty would therefore be pleased to appoint one accordingly, and the support of such a Captain Generall requiring necessarily a much greater expence than any other particular Governour, they submitt their proposition of uniting the Governments of the Massachusets, New York and New Hampshire (in order to the better defraying of that charge) unto Your Majesty's Royall pleasure.

This being the state of that matter as it hath been sett forth to us the forementioned memorials ; and we having also humbly laid before their exellencies the late Lord Justices (by our Representation dated the 30th of September last) our opinion that it is hardly possible Your Majesty's Colonies on the Northerne Continent of America ,

can be preserved, unlesse Your Majesty shall be pleased to constitute during this war, some active vigilant and able man to be Captain Generall of all Your Majestys, forces and of all the Militias of those Colonies ; which opinion we then grounded upon a report of your Majesty's Attorney and Sollicitor Generall dated the 2<sup>d</sup> of April 1694 declaring it Your Majesty's right to constitute a Chief Commander with such authority, especially during the war ; and further also we having more particularly proposed to Your Majesty (by our Representation dated the 25<sup>th</sup> November last) that the Governour whom your Majesty shall please to constitute over the Province of the Massachusetts Bay may likewise have the superior command throughout all New England for the security and defence thereof during the war : We now humbly crave leave to add that the distinct Proprieties, Charters, and different forms of Government in severall of those neighbouring Colonies, make all other Union, except under such a Military Head (in our opinion) at present impracticable, and that what hath yet been done towards such a Military Union for Common defence (by the appointment of a Quota in the year 1694) hath been so little complied with, that it requires the exertion of a more vigorous power than hath hitherto been practised, to make it produce the desired effect.

But upon the whole, it being evident that notwithstanding the different constitutions of the Governments of the Massachusetts, New Hampshire and New York, yet Your Majesty hath the right of appointing Governours in all those places, and also (according to the forementioned opinion of Your Majesty's Attorney and Sollicitor Generall) the right of constituting a Military Head both over them and all other Your Majesty's Provinces, Colonies and Plantations in America during the time of war : We are humbly of opinion that Your Majesty be graciously pleased

to constitute a fit person to be Governor over the Provinces of New York, Massachusetts Bay and New Hampshire, and that the same person be also Captaine Generall of all Your Majesty's forces both there and in Connecticut, Rhode Island and the Jerseys, and that the chief residence of such Governor or Captaine Generall during the war be appointed to be at New York, that the Province being most in danger to be attacked by the enemy, and the inhabitants not one fourth part of the number that are in Massachusetts, and also, because the Sallary of £600 now paid to that Governor arises (or has been alledged) out of subsidies granted by the Assembly there. But nevertheless that the said Governor or Captaine Generall may have liberty to remove from thence to Boston and back againe from time to time, leaving Lieutenants in either place respectively as occasion shall require.

And in the last place we are also humbly of opinion that the Generall Assemblies of all those neighbouring Colonies by the prudent conduct of such a Captaine Generall may be made to understand their own true interest and thereby induced to enact such laws in their respective governments as shall be necessary to enable the said Captaine Generall to execute Your Majesty's Commissions, so as shall be most for your Majesty's service, their own defence and generall advantage.

All which nevertheless is most humbly submitted

signed      J. BRIDGEWATER

TANKERVILLE

PH. MEADOWS

JN<sup>o</sup> POLLEXFEN

ABR. HILL.

Whitehall

February the 25

1696/7

## XCIX.

EXTRACTS FROM COMMISSION TO THE EARL OF  
BELLOMONT, BY WILLIAM III. OF ENGLAND.

JUNE 18/28, 1697.

*Sources.*

The commission from William III. to the Earl of Bellomont as captain-general and governor-in-chief of the "province of New York and the territories depending thereon in America" was issued June 18/28, 1697. In "New-England Entries," Board of Trade, A, 143, there is a communication in behalf of his majesty from the Duke of Shrewsbury to the Lords of Trade, March 16/26, 1696/7, in which he signifies to their lordships the appointment of Governor Bellomont, in order that they may prepare his several commissions and instructions. According to the report of the Lords of Trade, <sup>February 25, March 7,</sup> 1696/7, Massachusetts Bay and New Hampshire were the dependencies of New York. During the war the Earl of Bellomont would also be the captain-general of all his majesty's forces in Connecticut, Rhode Island, and the Jerseys. Instructions drawn up by the Lords Justices were issued <sup>August 31, September 10,</sup> 1697.

The commission was printed from "New-York Entries," A, 190, now in the Public Record office, London, by Edmund Bailey O'Callaghan, editor, "Documents Relative to the Colonial History of the State of New York" (Albany, 1854), IV., 266-273; instructions, *ibid.*, 284-292.

The text adopted is O'Callaghan's, which is the only printed source noted.

*Text.*

Commission for the R<sup>t</sup> Hon<sup>ble</sup> the Earl of Bellomont to be  
His Maj<sup>ts</sup> Capt<sup>n</sup> General and Gov<sup>r</sup> in Chief of His  
Maj<sup>ts</sup> province of New York and the territories de-  
pending thereon in America.

WILLIAM the third by the Grace of God King of Eng-  
land Scotland France and Ireland defender of the faith etc.

To our Right trusty and Right welbeloved Cousin Richard, Earl of Bellomont, GREETING. We reposing especial trust and confidence in the prudence courage and loyalty of you the said Richard Earl of Bellomont, out of our especial grace certain knowledge and meer motion, have thought fit to constitute and appoint, and we do by these presents constitute and appoint you the said Earl of Bellomont to be our Capt<sup>n</sup> General and Gov<sup>r</sup> in cheif in, and over our province of New York and the territories depending thereon in America.

And we do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust we have reposed in you according to the several powers and directions granted or appointed you by this present Commission, and the Instructions herewith given you, or by such further powers, Instructions and Authorities as shall at any time hereafter be granted or appointed you under our signet or sign manual, or by our order in our privy council, and according to such reasonable laws and Statutes, as now are in force, or hereafter shall be made and agreed upon by you with the advice and consent of the Council, and Assembly of our said province under your Govern<sup>t</sup> in such manner and forme as is hereafter expressed.

And we do hereby give and grant full power unto you the said Richard Earl of Bellomont after you shall first have taken an oath for the due execution of the Office and trust of our Capt<sup>n</sup> General and Gov<sup>r</sup> in Chief in and over our said province of New York and the territories depending thereon which our said Council or any five of them have hereby full power and authority, and are required to administer unto you, to give and administer to each of the members of our said Council, as well the oaths appointed by act of Parlm<sup>t</sup> to be taken instead of the oaths of Allegiance, and supremacy,

as the Test and the oath for the due execution of their places and trusts and likewise to require them to subscribe the late association mentioned in an act of Parliament made in the 7<sup>th</sup> and 8<sup>th</sup> years of our Reign, entituled: *An act for the better security of His Maj'tys Royal person and Government.* . . .

And lastly we do hereby declare ordain and appoint, that you the said Earl of Bellomont shall and may hold execute and enjoy the Office and place of our Capt<sup>n</sup> General and Gov<sup>r</sup> in chief in and over our province of New York and the territories depending thereon, together with all and singular the powers and Authorities hereby granted unto you, for and during our will and pleasure, immediately upon your arrival within our said province of New York and the publication of this our Commission from which time our Commission to our Trusty & welbeloved Benjamin Fletcher Esq: to be Capt<sup>n</sup> Gen<sup>l</sup> and Gov<sup>r</sup> in chief of our said province and territories depending thereon is immediately to cease and become void. . . .

IN WITNESS whereof, We have caused these our letters to be made patents. —— Witnesses. Thomas Archbishop of Canterbury, and the rest of the Guardians and Justees of the Kingdome — At Westminster the 18<sup>th</sup> day of June in the ninth Year of our Reign 1697

## C.

EXTRACTS FROM THE PEACE OF RYSWICK, BE-  
TWEEN WILLIAM III. OF ENGLAND AND  
LOUIS XIV. OF FRANCE.

SEPTEMBER 10/20, 1697.

*Sources.*

The peace concluded at Ryswick, September 10/20, 1697, by William III. of England and Louis XIV. of France was in reality but little more than a truce between the two powers. Nevertheless it rendered null the conquests made in Acadia during the conflict known as King William's War. Not only was Acadia relinquished to the French but the Sagadahoc territory was again disputed ground. While the French claimed that it had been restored to them by the treaties of St. Germain and Breda, the Lords of Trade on the other hand urged the province to rebuild the fort at Pemaquid.

It is of interest to note in the concluding articles of the treaty of Ryswick efforts toward arbitration as well as friendly mediation.

The best Latin text of the terms of peace is that of Jean Dumont, "Corps Universel Diplomatique du Droit des Gens" (Amsterdam, 1781), VII. part ii., 399-402; from that source it is reprinted in both Latin and French in "Mémoires des Commissaires du Roi et de ceux de sa Majesté Britannique, sur les Possessions et les Droits respectifs des deux Couronnes en Amérique" (Paris, 1755), II., 92-108. In French it is also in "Collection de Manuscrits contenant Lettres, Mémoires, et Autres Documents Historiques relatifs à la Nouvelle-France" (Quebec, 1883), II., 227-236. The earliest English text is in "A General Collection of Treatys, Declarations of War, Manifestos, and Other Public Papers, relating to Peace and War" (London, 1710), I., 302-308; and in another nearly contemporaneous edition, "A Collection of Treaties of Peace and Commerce, containing all those that have been concluded from the Peace of Munster, inclusive to this Time" (London, 1714),

180-182. More reliable texts are those of Charles Jenkinson, "A Collection of all the Treaties of Peace, Alliance, and Commerce, between Great Britain and Other Powers, from . . . 1648, to . . . 1783" (London, 1785), I., 299-305; and George Chalmers, "A Collection of Treaties between Great Britain and Other Powers" (London, 1790), I., 332-340.

The text adopted for these extracts from the peace of Ryswick is that of Chalmers, from the copy "published by authority in 1697."

*Text.*

I. THAT there be an universal perpetual peace, and a true and sincere friendship, between the most Serene and Mighty Prince William the Third, King of Great Britain, and the most Serene and Mighty Prince Lewis the Fourteenth, the most Christian King, their heirs and successors, and between the kingdoms, states and subjects of both; and that the same be so sincerely and inviolably observed and kept, that the one shall promote the interest, honour, and advantage of the other, and that on both sides a faithful neighbourhood, and true observation of peace and friendship, may daily flourish and increase.

II. That all enmities, discords, and wars, between the said King of Great Britain and the most Christian King, and their subjects, cease and be abolished, so that on both sides they forbear and abstain hereafter from all plundering, depredation, harm-doing, injuries, and infestation whatsoever, as well by land as by sea, and on fresh waters, every where; and especially throughout all the kingdoms, territories, dominions, and places, belonging to each other, of what condition soever they be.

III. That all offences, injuries, damages, which the said King of Great Britain and his subjects, or the said most Christian King and his subjects, have suffered from each other during this war, shall be forgotten, so that neither on

account of them, or for any other cause or pretence, neither party, or the subjects of either, shall hereafter do, cause, or suffer to be done, any hostility, enmity, molestation, or hinderance to the other, by himself or others, secretly or openly, directly or indirectly, by colour of right or way of fact. . . .

VII. The most Christian King shall restore to the said King of Great Britain, all countries, islands, forts, and colonies, wheresoever situated, which the English did possess before the declaration of this present war. And in like manner the King of Great Britain shall restore to the most Christian King all countries, islands, forts, and colonies, wheresoever situated, which the French did possess before the said declaration of war; and this restitution shall be made, on both sides, within the space of six months, or sooner if it can be done. And to that end, immediately after the ratification of this treaty, each of the said Kings shall deliver, or cause to be delivered, to the other, or to commissioners authorized in his name for that purpose, all acts of concession, instruments, and necessary orders, duly made and in proper form, so that they may have their effect.

VIII. Commissioners shall be appointed on both sides, to examine and determine the rights and pretensions which either of the said Kings hath to the places situated in Hudson's Bay; but the possession of those places which were taken by the French, during the peace that preceded this present war, and were retaken by the English during this war, shall be left to the French, by virtue of the foregoing article. The capitulation made by the English on the fifth of September, 1696, shall be observed, according to its form and tenor; that the merchandizes therein mentioned shall be restored; the governor of the fort taken there shall be set at liberty, if it be not already done; the differences arisen concerning the execution of the said capitulation, and

the value of the goods there lost, shall be adjudged and determined by the said commissioners; who, immediately after the ratification of the present treaty, shall be invested with sufficient authority for settling the limits and confines of the lands to be restored on either side, by virtue of the foregoing article, and likewise for exchanging of lands, as may conduce to the mutual interest and advantage of both Kings.

And to this end the commissioners so appointed shall, within the space of three months from the time of the ratification of the present treaty, meet in the city of London, and within six months, to be reckoned from their first meeting, shall determine all differences and disputes which may arise concerning this matter; after which, the articles the said commissioners shall agree to, shall be ratified by both Kings, and shall have the same force and vigour as if they were inserted word for word in the present treaty . . .

XVI. Under this present treaty of peace shall be comprehended those who shall be named by either party, with common consent, before the exchange of ratifications, or within six months after. But in the mean time, the most Serene and Mighty Prince William, King of Great Britain, and the most Serene and Mighty Prince Lewis, the most Christian King, gratefully acknowledging the sincere offices and indefatigable endeavours, which have been employed by the most Serene and Mighty Prince Charles King of Sweden, by the interposition of his mediation, in bringing this happy work of the peace, with the Divine assistance, to the desired conclusion; and to shew the like affection to him, it is by consent of all parties stipulated and agreed, that his said Sacred Royal Majesty of Sweden shall, with all his kingdoms, countries, provinces, and rights, be included in this treaty, and comprehended, in the best manner, in the present pacification.

XVII. Lastly, the solemn ratifications of this present agreement and alliance, made in due form, shall be delivered on both sides, and mutually and duly exchanged at the royal palace of Ryswick, in the Province of Holland, within the space of three weeks, to be reckoned from the day of the subscription, or sooner if it may be.

In testimony of all and every the things before mentioned, and for their greater force, and to give them all the vigour and full authority they ought to have, the underwritten Ambassadors Extraordinary and Plenipotentiaries, together with the Illustrious and most Excellent the Extraordinary Ambassador Mediator, have signed and sealed the present instrument of peace.

Done, &c.

Signed by the English and French Ambassadors, and by the Mediator.

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## CI.

### EXTRACTS FROM THE PEACE OF Utrecht, BETWEEN QUEEN ANNE OF ENGLAND AND LOUIS XIV. OF FRANCE.

MARCH 31  
APRIL 11, 1713.

#### *Sources.*

The treaty of peace and friendship, concluded <sup>March 31</sup> <sub>April 11</sub>, 1713, between Queen Anne of England and Louis XIV. of France, was but one of many negotiations made at the congress of Utrecht. By this treaty Nova Scotia, or Acadia, "with its ancient boundaries" was ceded to England. Although Nova Scotia has ever since remained a British province, a long controversy, which gave rise to voluminous publications, resulted from indefinite terms of the boundaries.

The text of the treaty has been printed many times. In French it is found entire in Jean Dumont "Corps Universel Diplomatique du Droit des Gens" (Amsterdam, 1731), VIII., part I, 339-342; it is reprinted from that source in "Mémoires des Commissaires du Roi et de ceux de sa Majesté Britannique, sur les Possessions et les Droits respectifs des deux Couronnes en Amérique" (Paris, 1755), II., 113-136; in both Latin and French in Casimir Freschot, "Actes, Mémoires, & autres Pièces Authentiques concernant la Paix d'Utrecht" (Utrecht, 1714), II., 457-509. The entire text in English is in "A General Collection of Treatys, Declarations of War, Manifestos, and Other Public Papers, relating to Peace and War" (London, 1710), III., 378-422; Charles Jenkinson, "A Collection of all the Treaties of Peace, Alliance, and Commerce, between Great Britain and Other Powers from . . . 1648 to . . . 1783" (London, 1785), II., 5-40; and George Chalmers, "A Collection of Treaties between Great Britain and Other Powers" (London, 1790), I., 340-390; in both English and French it is in "A Collection of the Acts passed in the Parliament of Great Britain, and of Other Public Acts Relative to Canada" (printed by P. E. Desbarats, Quebec, 1800), 34-41. Extracts are cited by William Bollan, "The Importance and Advantage of Cape Breton" (London, 1746), 29-36; "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed, but not published, Washington, 1829), Appendix VII., 63; and William Houston, "Documents Illustrative of the Canadian Constitution" (Toronto, 1891), 3-5.

The text adopted is that of Chalmers whose reprint was made from a copy "published by authority in 1713."

*Text.*

XII. The most Christian King shall take care to have delivered to the Queen of Great Britain, on the same day that the ratifications of this treaty shall be exchanged, solemn and authentic letters, or instruments, by virtue whereof it shall appear, that the island of St. Christopher's to be possessed alone hereafter by British subjects, likewise all Nova Scotia or Acadie, with its ancient boundaries, as

also the city of Port Royal, now called Annapolis Royal, and all other things in those parts, which depend on the said lands and islands, together with the dominion, property, and possession of the said islands, lands, and places, and all right whatsoever, by treaties, or by any other way obtained, which the most Christian King, the Crown of France, or any the subjects thereof, have hitherto had to the said islands, lands, and places, and the inhabitants of the same, are yielded and made over to the Queen of Great Britain, and to her crown, for ever, as the most Christian King doth at present yield and make over all the particulars abovesaid; and that in such ample manner and form, that the subjects of the most Christian King shall hereafter be excluded from all kind of fishing in the said seas, bays, and other places, on the coasts of Nova Scotia, that is to say, on those which lie towards the east, within 30 leagues, beginning from the island commonly called Sable, inclusively, and thence stretching along towards the south-west.

XIII. The island called Newfoundland, with the adjacent islands, shall from this time forward belong of right wholly to Britain; and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratifications of this treaty, or sooner, if possible, by the most Christian King, to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the most Christian King, his heirs and successors, or any of their subjects, at any time hereafter, lay claim to any right to the said island and islands or to any part of it, or them. Moreover it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish; or to resort

to the said island, beyond the time necessary for fishing, and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton as also all others, both in the mouth of the river of St. Lawrence, and in the gulph of the same name, shall hereafter belong of right to the French, and the most Christian King shall have all manner of liberty to fortify any place or places there.

XIV. It is expressly provided, that in all the said places and colonies to be yielded and restored by the most Christian King, in pursuance of this treaty, the subjects of the said King may have liberty to remove themselves, within a year, to any other place, as they shall think fit, together with all their moveable effects. But those who are willing to remain there, and to be subject to the kingdom of Great Britain, are to enjoy the free exercise of their religion, according to the usage of the church of Rome, as far as the laws of Great Britain do allow the same.

XV. The subjects of France inhabiting Canada, and others, shall hereafter give no hinderance or molestation to the five nations or cantons of Indians, subject to the dominion of Great Britain, nor to the other natives of America, who are friends to the same. In like manner, the subjects of Great Britain shall behave themselves peaceably towards the Americans who are subjects or friends to France; and on both sides they shall enjoy full liberty of going and coming on account of trade. As also the natives of those countries shall, with the same liberty, resort, as they please, to the British and French colonies,

for promoting trade on one side and the other, without any molestation or hinderance, either on the part of the British subjects or of the French. But it is to be exactly and distinctly settled by commissaries, who are, and who ought to be accounted the subjects and friends of Britain or of France.

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## CII.

EXPLANATORY CHARTER OF MASSACHUSETTS BAY,  
BY GEORGE I. OF ENGLAND.AUGUST 26  
SEPTEMBER 6, 1725.*Sources.*

The “Explanatory Charter” of <sup>August 26, September 6,</sup> 1725, with the box in which it was sent from England, is in the custody of the secretary of state for Massachusetts. Because it was designed to regulate omissions in the “Province Charter” in regard to the organization of the legislative assembly, the document is sometimes called the “Supplementary” Charter. It was accepted by the General Court, January 15/26, 1725/6. The Explanatory Charter affords an interesting study in the development of popular government. As it was the model of legislative proceedings it is printed entire in this compilation.

It was first “printed for and sold by D. Henchman,” under the title “The Explanatory Charter granted by His Majesty, King George I. to the Province of the Massachusetts-Bay in New-England” (Boston, 1725/6), 2-7; later editions are by Nathan Dane, William Prescott, and Joseph Story, compilers, “The Charters and General Laws of the Colony and Province of Massachusetts Bay” (Boston, 1814), 38-40, and Ben : Perley Poore, compiler, “The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States” (Washington, 1877), 954-956.

The text adopted here is that of Ellis Ames and Abner Cheney Goodell, compilers, "The Acts and Resolves, public and private, of the Province of the Massachusetts Bay" (Boston, 1869), I., 21-23.

*Text.*

GEORGE BY THE GRACE OF GOD OF Great Britain France and Ireland king Defender of the Faith &c To ALL to whom these Presents shall come Greeting WHEREAS Our late Royal Predecessors William and Mary King and Queen of England &c Did by their letters Patents under their Great Seal of England bearing date at Westminster the Seventh day of October in the Third year of their Reign for themselves theire Heires and Successors Vnite Erect and Incorporate the Territories and Colonies commonly called or known by the names of the Colony of the Massachusetts Bay and Colony of New Plymouth the Province of Main the Territory called Accada or Nova Scotia and all that Tract of land lying between the said Territorys of Nova Scotia and the said Province of Main into One Reall Province by the Name of Our Province of the Massachusetts Bay in New England AND WHEREAS their said late Majesties King William and Queen Mary did by the said recited letters Patents (amongst other things therein contained) for themselves their Heires and Successors Ordain and Grant that there should and might be Convened held and kept by the Governor for the time being upon every last Wednesday in the Month of May every year forever and at all such other times as the Governor of the said Province should think fitt and Appoint a Great and Generall Court or Assembly which said Great and Generall Court or Assembly should Consist of the Governour and Council or Assistants for the time being and of such Freeholders of their said Province or Territory as should be from time to time elected or deputed by the major part of the Freeholders and other Inhabitants

of the respective Towns or places who should be present at such Elec̄ons each of the said Towns and places being thereby impowered to Elect and Depute two Persons and no more to Serve for and represent them respectively in the said Great and Generall Court or Assembly and that the Governor for the time being should have full Power and Authority from time to time as he should Judge necessary to adjourn Prorogue and Dissolve all Great and Generall Courts or Assemblies met and Convened as aforesaid And did thereby also for themselves their Heires and Successors Provide Establish and Ordain that in the Framing and Passing of all Orders laws Statutes and Ordinances and in all Elec̄ons and Acts of Government whatsoever to be passed made or done by the said Generall Court or Assembly or in Council the Governor of the said Province or Territory of the Massachusetts Bay in New England for the time being should have the Negative Voice and that without his Consent or Approbaçon Signified and Declared in writing no such Orders laws Statutes Ordinances Elec̄ons or other Acts of Government whatsoever so to be made passed or done by the said General Assembly or in Council should be of any force Effect or Validity anything therein contained to the contrary in any wise notwithstanding as in and by the said letters Patents (relaçon being therevnto had) may more fully and at large appeare AND WHEREAS no Provision is made by the said recited letters Patents touching the Nominaçon and Elec̄on of a Speaker of the Representatives Assembled in any Great and Generall Court of Our said Province nor any particular Reservaçon made of the Right of Vs Our Heires and Successors to approve or disapprove of such Speaker by the Governor of the said Province appointed or to be appointed by vs or them for the time being And no power is Granted by the said recited letters Patents to the said House of Representatives to adjourn

themselves for any time whatsoever by means whereof divers Doubts and Controversies have Arisen within Our said Province to the Interrupcon of the Publick Business thereof and the obstruccon of Our Service KNOW YEE therefore that for removing the said Doubts and Controversies and preventing the like mischiefs for the future And also for the further Explanacon of the said recited letters Patents Wee of Our Especial Grace certain knowledge and meer mocon Have Granted Ordained and Appointed And by these Presents for Vs Our Heirs and Successors Do Will Grant Ordain and Appoint that for ever hereafter the Representatives Assembled in any Great or General Court of Our said Province to be hereafter Summoned shall upon the first day of their Assembling Elect a fit Person out of the said Representatives to be Speaker of the House of Representatives in such General Court and that the Person so Elected shall from time to time be presented to the Governor of Our said Province for the time being or in his absence to the lieutenant Governor or Comander in Chief of Our said Province for his Approbacon to which Governor lieutenant Governor and Comander in Chief respectively Wee do hereby for Vs Our Heires and Successors Give full power and Authority to approve or disapprove of the Person so Elected and presented which approbacon or disapprobacon shall be Signified by him by Message in writing under his Hand to the said House of Representatives And in Case such Governour lieutenant Governor or Comander in Chief shall disapprove of the Person so Elected and presented or the Person so Elected and presented being approved as aforesaid shall happen to dye or by Sickness or otherwise be disabled from Officiating as Speaker in every such Case the said Representatives so Assembled shall forthwith Elect an other Person to be Speaker of the House of Representatives to be present and approved or disapproved in manner

as aforesaid and so from time to time as often as the Person so Elected and presented shall be disapproved of or happen to dye or become disabled as aforesaid AND Our further Will and Pleasure is And Wee do by these presents of Our more abundant Grace for Vs Our Heires and Successors Grant Ordain and Appoint that it shall and may be lawfull to and for the Representatives assembled in any Great or Generall Court of Our said Province for the time being for ever hereafter to Adjourn themselves from day to day (and if occasion shall require) for the space of two days but not for any longer time than for the space of two days without leave from the Governor or in his Absence [from] the lieutenant Governor or Comander in Chief of our said Province for the time being first had and obtained in that behalfe any thing in the said recited letters Patents contained to the Contrary thereof in any wise Notwithstanding PROVIDED always that nothing in these presents contained shall Extend or be Construed to Extend to revoke alter or prejudice the Power and Authority by the said recited letters Patents Granted to the Governor of the said Province for the time being to Adjourn Prorogue and Dissolve all Great and General Courts or Assemblies of Our said Province AND LASTLY Wee do by these presents for Vs Our Heires and Successors Grant that these Our letters Patents or the Enrollment or Exemplificacon thereof shall be in and by all things good firm valid and Effectual in the law according to the true intent and meaning thereof notwithstanding the not rightly or fully reciting menconing or describing the said recited letters Patents or the Date thereof or any other Omission Imperfeccon Defect matter Cause or thing whatsoever to the Contrary thereof in any wise notwithstanding IN WITNESS whereof Wee have Caused these Our letters to be made Patents WITNESS William Archbishop of Canterbury and the rest of the Guardians and Justices of the

Kingdom at Westminster the Six and twentieth day of August in the twelfth year of Our Reign

By Writ of Privy Seal

COCKS

[Endorsed:]

*Massachusetts' Bay Explanatory Chre. Ppetuity.*

COCKS.

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CIII.

COMMISSION TO COLONEL PHILIPPS AS GOVERNOR  
OF NOVA SCOTIA, BY GEORGE II. OF ENGLAND.

SEPTEMBER 11/22, 1728.

*Sources.*

The commission of Colonel Richard Philipps as captain-general and governor-in-chief of Nova Scotia was given by George II. of England, September 11/22, 1728. Although by the province charter of 1691, Nova Scotia was consolidated with Massachusetts Bay, yet, on account of its remoteness, and the distracted condition resulting from King William's war, the Lords of Trade in 1696 separated it. After the peace of Utrecht, Nova Scotia became a royal province. In subsequent negotiations the commissions of the first royal governors were used as evidence of separation of the provinces.

A transcript of the commission of 1728 to Colonel Philipps, "extracted from the original articles," is in "Massachusetts Archives," V., 331-333, with instructions, July 1/12, 1729, *ibid.*, 334-337; with another of similar purport, issued two years later, it is printed in a "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix XV., 125-129; and an extract from the earlier commission was printed with "Resolves of the Eighth Legislature of the State of Maine"

(Portland, 1828), Appendix, 119, 120; also "American State Papers, Foreign Relations" (Washington, 1859), VI., 915.

Study of the text shows that the date, 1719, of the printed forms, is an error.

The text adopted for this compilation is that of the Massachusetts Archives.

*Text.*



Copy of his Majesty's Commission to His Excellency Rich<sup>d</sup> Philipps Esq<sup>r</sup> Gov<sup>r</sup> of Nova Scotia &c. &c.

GEORGE the Second by the Grace of GOD of Great Britain, France & Ireland KING Defender of the Faith &c To our Trusty & well beloved Rich<sup>d</sup> Philipps Esq<sup>r</sup> GREETING Whereas our late Royal Father of Blessed Memory did by his Letters Patents under his Great Seal of Great Britain, Bearing Date at Westminster the ninth day of July in the fifth year of his Reign, Constitute & appoint you the said Rich<sup>d</sup> Philipps Gov<sup>r</sup> of Placentia in Newfoundland & Captain General & Governor in Chief in & over his Province of Nova Scotia or Acadia in America for & during his said late Majesty's Will & pleasure As by the said recited Letters Patents, relation being thereunto had may more fully and at large appear, In which said office by Virtue of the Statute in such case made & provided he was continued for y<sup>e</sup> space of Six Months from the time of the Demise of His Late Majesty And by Virtue of our Royal Proclamation for that purpose Issued, Bearing Date the 5<sup>th</sup> day of July in the first year of our Reign he is continued untill our pleasure be further known or other Provision be made concerning the said Office Now Know you that we have Revok'd and Determin'd & by these Presents do revoke & Determine the said recited Letters Patents & every Clause Article & thing therein contain'd; AND FURTHER KNOW you

THAT WE reposing especial trust & Confidence in the Prudence Courage and Loyalty of you the said Rich<sup>d</sup> Phillips out of our Especial Grace, certain Knowledge and meer motion have thought fit to Constitute & appoint and by these Presents do Constitute & appoint you the said Rich<sup>d</sup> Philipps to be our Governour of Placentia in Newfoundland & our Captain General & Governour in Chief in & over our Province of NOVA SCOTIA, or Accadia in America ; And We do hereby require & Command you to Do & Execute all things in due manner that shall belong unto your said Command & the trust we have repos'd in you according to the several Powers & Authorities Granted or appointed you by this present Commission & Instruction herewith given you or by such further powers Instructions & Authorities as shall at any time hereafter be granted or appointed you under our Signett & Sign Manual or by our Order in our Privy Council & according to such reasonable Laws and statutes as hereafter shall be made & assented to by you with the Advice and Consent of our Council & Assembly of our said Province hereafter to be appointed ; And for the better Administration of Justice & Management of the publick Affaires of our said Province We hereby give & Grant unto the said Rich<sup>d</sup> Philipps full power & Authority to Choose, Nominate & Appoint such fitting & discreet persons as you shall either find there or carry along with you not Exceeding the number of twelve to be of our Council in our said Province till our further pleasure be known, any five whereof we do hereby appoint to be a Quorum ; Which being done you shall your selfe take & also administer unto each of the Members of our said Council the Oaths mentioned in an Act pass'd in the first year of His said late Majesty's Reign Entituled (An Act for the further Security of His Majesty's Person & Government & the Succession of the Crown in the Heirs of the Late Princess

SOPHIA being Protestants & for Extinguishing the Hopes of the Pretended Prince of Wales & his Open and secret Abettors) as also to make & subscribe and cause them to make & subscribe the Declaration mentioned in an Act of Parliament made in the 25<sup>th</sup> year of the Reign of King Charles the Second Entituled (AN ACT for preventing Dangers which may happen from Popish Recusants) AND you & every one of them are to take an Oath for the due Execution of your & their places & trusts as well with regard to the equal & impartial Administration of Justice & all causes that shall come before you as in all other matters, and likewise the Oath requir'd to be taken by all Governours of Plantations to do their utmost that the Laws relating to the plantation be observed all which Oaths We do hereby empower any five of our said Council to Administer to you; AND we do hereby Give and Grant unto you the said Rich<sup>d</sup> Philipps by your self, or by your Captain & Commanders by you Authoriz'd full power & authority to Levy, arm, muster, Command & employ all Persons whatsoever Residing within our said Province of Nova Scotia under our Government, And as Occasion shall serve to march from one place to another or to Embarque them for the resistance & Withstanding of all Enemies & such Enemies, Pyrates and Rebells both at Sea & Land & to transport such forces to any of our Plantations in America if necessity shall require for the Defence of the same against the Invasion or Attempts of any of our Enemies and such Enemies, Pyrates & Rebels if there shall be Occasion to pursue & prosecute in or out of the Limits of our said Province & if it shall so please GOD them to Vanquish Apprehend & take & being taken according to Law to put to Death or keep & preserve alive at your Discretion & to Execute Martial Law in time of Invasion, Insurrection or other times when by Law it may be executed and to Do

Execute all & every other thing & things which to our Capt<sup>n</sup> General & Gov<sup>r</sup> in Chief doth or ought of right to belong; AND we do likewise Give & Grant unto you full power & Authority by & with the Advice & Consent of our said Council to settle & agree with the Inhabitants of our said Province of NOVA SCOTIA for such Lands, Tenements, Hereditaments as now are or hereafter shall be in our Power to Dispose of them to Grant unto any person or persons upon such fines and under such moderate Quit Rents, Services & Acknowledgements to be thereupon reserv'd unto us as you (by & with y<sup>e</sup> Advice aforesaid) shall think fitt which said Grants being enter'd upon Record by such Officer as you shall appoint thereunto shall be good & Effectual in Law against us our Heirs and Successors; AND we do hereby Give and Grant unto you the said Rich<sup>d</sup> Phil- ipps or to any five or more of the Council full power and Authority to administer the forementioned Oaths unto every person in the said Province capable by the Laws to take the same, AND we do hereby further give full power & Authority to you the said Rich<sup>d</sup> Philipps to do Execute & Perform all & every such further Act & Acts as shall or may tend & Conduce to the Security of our said Province and the good People thereof and to the Honour of our Crown, AND our further Will & pleasure is And we do hereby require & Command all Officers & Ministers Civil and Military, with all other Inhabitants of our said Province of NOVA SCOTIA to be Obedient Aiding and Assisting unto you the said Rich<sup>d</sup> Philipps in the Execution of this our Commission & of the Powers and Authorities herein contain'd & in case of your Death or Absence out of our said Province to be Obedient, Aiding and Assisting to such per- son as is or shall be appointed by us, to be our Lieu<sup>t</sup> Gov<sup>r</sup> or Commander in Chief for the time being, to whom we do therefore by these Presents give and Grant all & Singular

the Powers & Authorities herein Granted to be by him Executed & Enjoy'd during our Pleasure or until your Arrival within our said Province; AND we do hereby Declare, Ordain & appoint that you the said Rich<sup>d</sup> Philippy shall & may hold, Execute & Enjoy the Office & Place of our Governour of Placentia in Newfoundland and our Capt<sup>n</sup> General & Gov<sup>r</sup> in Chief in & Over our said Province of NOVA SCOTIA with all its Rights & Appurtenances whatso-ever together with all & Singular the Powers & Authoritys hereby Granted unto you for & During our Will & Pleasure; IN WITNESS whereof we have Caus'd these our Letters to be made Patents Witness ourself at Westminster the Eleventh Day of September in the Second year of our Reign

Extracted from the  
Records  
W. Shereff Sect

By Writt of Privy Seal  
BISSE & BRAY

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CIV.

EXTRACTS FROM DECISION ON THE NORTHERN  
BOUNDARY BETWEEN MASSACHUSETTS AND NEW  
HAMPSHIRE, BY GEORGE II. OF ENGLAND.

AUGUST 5/16, 1740.

*Sources.*

In 1737 the Board of Trade selected commissioners to investigate the northern boundary claims, with a view to the settlement of the long controversy between Massachusetts and New Hampshire. The king's decision on the return of the commissioners was rendered August 5/16,

1740, and was sent over at once with instructions to Jonathan Belcher, governor-in-chief of the Province of Massachusetts Bay. The northern line, as established in 1740, was the basis of the present boundary between Maine and New Hampshire; although inexact knowledge of the variation of the magnetic needle caused errors, they were corrected by later surveys.

Walter Bryant's journal which, as he stated on oath, was a true and exact record of the survey in 1741 is in the Massachusetts Archives; it was first published in the "Historical Magazine" (1871), XIX., 17-19; later by Nathaniel Bouton, compiler, "Records of New Hampshire, Provincial Papers" (Manchester, 1872), VI., 349-351.

There are several manuscript copies of the commissioners' "Report" and the king's "Decision," in "Massachusetts Archives," V., 115-119; New Hampshire MSS., "Province Boundaries," 161; and "Masouian Papers," IV., 171. The report was first printed by Jeremy Belknap, "History of New Hampshire" (Boston, 1791), II., 143-145. Both the report and the king's decision are in a "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix XXIV., 207-209. In New Hampshire Historical Society "Collections," II., 267-290, is "An Historical Sketch of the Northern Boundary of New Hampshire." The documents relating to the controversy have been collected and published by Albert Stillman Batchellor, editor, "Provincial Papers of New Hampshire, 1679-1764" (Manchester, 1891), XIX.; the royal decision is found in pages 476-479.

The text here adopted for the extracts relating to the boundary between the District of Maine and the Province of New Hampshire is that of the "Massachusetts Archives."

### *Text.*

85<sup>th</sup> WHEREAS Disputes and Controversies have for many Years subsisted between His Majesty's loving Subjects of y<sup>e</sup> Provinces of the Massachusetts Bay & New Hampshire in New England in regard to the boundaries between the said Provinces — and Whereas his Majesty was pleased by his order in Council Dated 22<sup>nd</sup> January 1735 to direct that

Commissioners should be appointed to mark out the dividing Line between the said Provinces — and also by His Majesty's Order in Council of the 9<sup>th</sup> February 1736 to direct that a Commission should be prepared and passed under the Great Seal (which said Commission was accordingly issued out) for Authorizing such Commissioners to meet within a limited time, to mark out the dividing line between the said Provinces, with Liberty to either Party who should think themselves aggriev'd by the determination of the said Commissioners to appeal therefrom to His Majesty in Council: which said Commissioners did make their report in the following words :—

“ In Pursuance of His Majesty's aforesaid Commission  
“ the Court took under Consideration the Evidences, Pleas  
“ and Allegations offered and made by each Party, referring  
“ to the controversy depending between them — and upon  
“ mature advisement on the whole, a doubt arose in point  
“ of Law, and the Court thereupon came to the following  
“ resolution vizt . . . as to the Northern Boundary be-  
“ tween the said Provinces the Court resolves and Deter-  
“ mines that the dividing Line shall pass up thrô the mouth  
“ of Piscataqua Harbor and up the middle of the River into  
“ the River Newichwannock (part of which is now called  
“ Salmon falls) and thrô the middle of the same to the fur-  
“thest head thereof, and from thence North Two degrees  
“ Westerly, untill one hundred and Twenty miles be finished  
“ from the mouth of Piscataqua Harbor aforesaid; or untill  
“ it meets with his Majesty's other governments and that the  
“ dividing Line shall part the Isles Shoals and run thro' the  
“ middle of the Harbor between the Islands to the Sea on  
“ the Southerly Side — and that the South westerly part of  
“ the said Islands shall lie in and be accounted part of the  
“ Prov<sup>ee</sup> of New Hampshire, and that the North easterly  
“ part thereof shall lie in and be accounted part of the

“ Province of the Massachusetts Bay, and be held and enjoyed by the said Provinces respectively, in the same manner as they now do, and have heretofore held and enjoyed the same ; and the Court do further adjudge that the Cost and Charges arising by taking out the Commission as also of the Commissioners and their Officers viz<sup>t</sup> the two Clerks, Surveyor and Waiter for their Travelling Expences and attendance in the Execution of the same, be equally borne by the said Provinces” . . .

which said Report of the said Committee of Council, his Majesty hath been pleased with the advice of his Privy Council to approve, and to declare, adjudge & order that the northern boundary of the said Province of the Massachusetts Bay are and be a similar Curve line pursuing the course of Merrimack River at three miles distance on the North side thereof . . . and to affirm thereof of the rest of the Commissioners said Report or Determination —

Whereof the Governor or Commander in Chief of His Majesty’s said Provinces for the time being, as also His Majesty’s respective Councils and Assemblies thereof, and all others whom it may concern are to take notice. —

It is therefore His Majesty’s Will and Pleasure and you are hereby required and enjoyned under pain of His Majesty’s highest displeasure and of being removed from your government to take especial care that his Majesty’s Commands in this behalf are Executed in the most effectual and expeditious manner to the end that His Majesty’s good intentions for promoting the Peace and Quiet of the said Provinces may not be frustrated or delayed ; and you are likewise hereby directed to Communicate this Instruction to the Council and Assembly of His Majesty’s said Province of New Hampshire, and to cause the same to be entered in the Council Book thereof.—

And for your further Information herein an Authentic Copy of the Plan returned for y<sup>e</sup> said Commissioners is hereunto annexed.

True Copy as upon Record.,

(T : Atkinson Jun Sec<sup>ry</sup>

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CV

EXTRACTS FROM THE TREATY OF AIX-LA-CHAPELLE, BETWEEN GEORGE II. OF ENGLAND, LOUIS XV. OF FRANCE, AND THE STATES GENERAL.

OCTOBER 18, N. S., 1748.

*Sources.*

The definitive treaty of peace between George II. of England, Louis XV. of France, and the States General, which was concluded at Aix-la-Chapelle, received also the sanction of the other great European powers. In the surrender of Louisburg and Cape Breton, although England virtually gave to France all the advantages gained by recent victories, the boundaries were left as before the war. By the appointment of Commissioners, according to the new treaty, an unsuccessful attempt was made to determine the ancient limits. Governor Shirley of Massachusetts represented the English government on the commission, which spent four years at Paris in futile attempts to adjust conflicting claims. That the discussions, and the evidence amassed were extensive, is shown by the quarto volumes of "Mémoires des Commissaires du Roi, et de ceux de sa Majesté Britannique, sur les Possessions et les Droits respectifs des deux Couronnes en Amerique" (Paris, 1755-1757), and "The Memorials of the English and French Commissaries Concerning the Limits of Nova Scotia or Acadia (London, 1755); in 1756 a duodecimo edition of the "Mémoires" was published in Paris, and whenever fresh material had been collected both English and French editions followed as rejoinders. Mitchell's map, which was the basis of the decisions of subsequent commissions, under

the treaty of Ghent, was published in 1755 for the Lords of Trade.

An early text of the treaty of Aix-la-Chapelle is that of Frid. Aug. Guil. Wenck "Codex Juris Gentium Recensis- simi" (Leipzig, 1788), II., 337-361. The treaty was printed in English by Charles Jenkinson, "A Collection of all the Treaties of Peace, Alliance and Commerce, between Great-Britain and Other Powers, from . . . 1648 to . . . 1783" (London, 1785), II., 370-387; and George Chalmers, "A Collection of Treaties between Great Britain and Other Powers" (London, 1790), I., 424-443.

The text followed in this reprint is that of Chalmers, which is based on the authorized version.

*Text.*

I. There shall be a christian, universal, and perpetual peace, as well by sea as land, and a sincere and lasting friendship, between the eight Powers abovementioned, and between their heirs and successors, kingdoms, states, provinces, countries, subjects, and vassals, of what rank and condition soever they may be, without exception of places or persons. So that the high contracting Powers may have the greatest attention to maintain, between them and their said states and subjects, this reciprocal friendship and correspondence, not permitting any sort of hostilities to be committed, on one side or the other, on any cause, or under any pretence whatsoever; and avoiding every thing that may, for the future, disturb the union happily re-established between them; and, on the contrary, endeavouring to procure, on all occasions, whatever may contribute to their mutual glory, interests, and advantage, without giving any assistance or protection, directly or indirectly, to those who would injure or prejudice any of the said high contracting parties.

II. There shall be a general oblivion of whatever may have been done or committed during the war now ended. And all persons, upon the day of the exchange of the

ratifications of all the parties, shall be maintained or re-established in the possession of all the effects, dignities, ecclesiastical benefices, honours, revenues, which they enjoyed, or ought to have enjoyed, at the commencement of the war, notwithstanding all dispossessions, seizures, or confiscations, occasioned by the said war.

III. The treaties of Westphalia of 1648; those of Madrid, between the crowns of England and Spain, of 1667 and 1670; the treaties of peace of Nimeguen of 1678 and 1679; of Ryswick of 1697; of Utrecth of 1713; of Baden of 1714; the treaty of the triple alliance of the Hague of 1717; that of the quadruple alliance of London of 1718; and the treaty of peace of Vienna of 1738, serve as a basis and foundation to the general peace, and to the present treaty; and, for this purpose, they are renewed and confirmed in the best form, and as if they were herein inserted word for word; so that they shall be punctually observed for the future in all their tenor, and religiously executed on the one side and the other; such points, however, as have been derogated from in the present treaty excepted.

IV. All the prisoners made on the one side and the other, as well by sea as by land, and the hostages required or given during the war, and to this day, shall be restored, without ransom, in six weeks at latest, to be reckoned from the exchange of the ratification of the present treaty; and it shall be immediately proceeded upon after that exchange: and all the ships of war, as well as merchant vessels, that shall have been taken since the expiration of the terms agreed upon for the cessation of hostilities at sea, shall be, in like manner, faithfully restored, with all their equipages and cargoes; and sureties shall be given on all sides for payment of the debts, which the prisoners or hostages may have contracted, in the states where they had been detained, until their full discharge.

V. All the conquests, that have been made since the commencement of the war, or which, since the conclusion of the preliminary articles, signed the 30th of April last, may have been or shall be made, either in Europe, or the East or West Indies, or in any other part of the world whatsoever, being to be restored without exception, in conformity to what was stipulated by the said preliminary articles, and by the declarations since signed; . . .

VIII. In order to secure and effectuate the said restitutions and cessions, it is agreed, that they shall be entirely executed and accomplished on all sides, in Europe, within the term of six weeks, or sooner if possible, to be reckoned from the day of the exchange of the ratifications of all the eight Powers; it being provided, that in fifteen days after the signing of the present treaty, the generals, or other persons, whom the high contracting parties shall think proper to appoint for that purpose, shall meet at Brussels and at Nice, to concert and agree on the method of proceeding to the restitutions, and of putting the parties in possession, in a manner equally convenient for the good of the troops, the inhabitants, and the respective countries; but so that all and each of the high contracting Powers may be, agreeable to their intentions, and to the engagements contracted by the present treaty, in full and peaceable possession, without any exception, of all that is to be acquired to them, either by restitution or cession, within the said term of six weeks, or sooner if possible, after the exchange of the ratifications of the present treaty by all the said eight Powers.

IX. In consideration that, notwithstanding the reciprocal engagement taken by the eighteenth article of the preliminaries, importing that all the restitutions and cessions should be carried on equally, and should be executed at the same time, his most Christian Majesty engages, by the sixth

article of the present treaty, to restore within the space of six weeks, or sooner if possible, to be reckoned from the day of the exchange of the ratifications of the present treaty, all the conquests which he has made in the Low Countries; whereas it is not possible, considering the distance of the countries, that what relates to America should be effected within the same time, or even to fix the time of its entire execution; his Britannic Majesty likewise engages on his part to send to his most Christian Majesty, immediately after the exchange of the ratifications of the present treaty, two persons of rank and consideration, who shall remain there as hostages, till there shall be received a certain and authentic account of the restitution of Isle Royal, called Cape Breton, and of all the conquests which the arms or subjects of his Britannic Majesty may have made, before or after the signing of the preliminaries, in the East and West Indies.

Their Britannic and most Christian Majesties oblige themselves likewise to cause to be delivered, upon the exchange of the ratifications of the present treaty, the duplicates of the orders addressed to the commissaries appointed to restore and receive, respectively, whatever may have been conquered on either side, in the said East and West Indies, agreeably to the second article of the preliminaries, and to the declarations of the 21st and 31st of May, and the 8th of July last, in regard to what concerns the said conquests in the East and West Indies. Provided nevertheless, that Isle Royal, called Cape Breton, shall be restored, with all the artillery and warlike stores which shall have been found therein on the day of its surrender, conformably to the inventories which have been made thereof, and in the condition that the said place was in on the said day of its surrender. As to the other restitutions, they shall take place conformably to the meaning of the second article of the preliminaries, and of the declarations and convention of

the 21st and 31st of May, and the 8th of July last, in the condition in which things were on the 11th of June, N.S. in the West Indies, and on the 31st of October also, N.S. in the East Indies. And every thing besides shall be re-established on the foot that they were or ought to be before the present war.

The said respective commissaries, as well those for the West, as those for the East Indies, shall be ready to set out on the first adviee that their Britannic and most Christian Majesties shall receive of the exchange of the ratifications, furnished with all the necessary instructions, commissions, powers, and orders, for the most expeditious accomplishment of their said Majesties intentions, and of the engagements taken by the present treaty.

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## CVI.

### EXTRACTS FROM THE PEACE OF PARIS, BETWEEN GEORGE III. OF ENGLAND AND LOUIS XV. OF FRANCE.

FEBRUARY 10, 1763.

#### *Sources.*

The definitive treaty of peace and friendship, concluded at Paris, February 10, 1763, between George III. of England and Louis XV. of France, was the closing act in the long conflict between the two powers in North America. With the exception of the islands of St. Pierre and Miquelon, France ceded the whole of her northern territory to Great Britain.

The treaty has been so often published that it would be hardly possible to give a full list of references. The earliest English prints were in the periodicals of that period : "The Annual Register" (1762), 233-243; "The Gentleman's Magazine" (1763), 121-126, with map (page 576), giving boundaries of the newly acquired territory; "The London Magazine" (1763), 149-155; and Hansard, "The Parliamentary History of England" (1753-1765), XV.,

1291-1305. In general collections of treaties it is printed by Charles Jenkinson, "A Collection of all the Treaties of Peace, Alliance, and Commerce, between Great Britain and Other Powers, from . . . 1648 to . . . 1783" (London, 1785), III., 177-193; George Chalmers, "A Collection of Treaties between Great Britain and Other Powers" (London, 1790), I., 467-484; Frid. Aug. Guil. Wenck, "Codex Juris Gentium Recentissimi" (Leipzig, 1795), III., 329-348; and George Frédéric de Martens, "Recueil de Traitées . . . des Puissances et états de l'Europe . . ." (Gottingue, 1817), I., 104-121. Extracts are in a "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix, VII., 64, 65; David Mills, M. P., "A Report on the Boundaries of the Province of Ontario" (Toronto, 1873), 218, 219; Charles Lindsey, "An Investigation of the Unsettled Boundaries of Ontario" (Toronto, 1873), 118, 119; William Houston, "Documents Illustrative of the Canadian Constitution" (Toronto, 1891), 61-65; William Kingsford, "The History of Canada" (London and Toronto, 1890), IV., 505-507, and William Macdonald, editor, "Select Charters and Other Documents, Illustrative of American History, 1606-1775" (New York, 1899), 261-266.

The extracts which relate both to the cession of Canada and Nova Scotia, and to the rights of fishing in certain waters are taken from "The Annual Register," 1762, which contains an authorized copy.

*Text.*

The Definitive Treaty of friendship and peace between his Britannic majesty, the most Christian king, and the king of Spain. Concluded at Paris, the 10<sup>th</sup> day of February, 1763. To which the king of Portugal acceded the same day.

In the name of the most Holy and Undivided Trinity,  
Father, Son, and Holy Ghost. So be it.

IV. His most Christian majesty renounces all pretensions which he has heretofore formed, or might form, to

Nova Scotia, or Acadia, in all its parts, and guarantees the whole of it, and with all its dependencies, to the king of Great Britain : moreover, his most Christian majesty cedes and guarantees to his said Britannic majesty, in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all the other islands and coasts in the gulph and river of St. Lawrence, and, in general, everything that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty or otherwise, which the most Christian king, and the crown of France, have had, till now, over the said countries, islands, lands, places, coasts, and their inhabitants, so that the most Christian king cedes and makes over the whole to the said king, and to the crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty, under any pretence, or to disturb Great Britain in the possessions above-mentioned. His Britannic majesty on his side, agrees to grant the liberty of the Catholic religion to the inhabitants of Canada : he will consequently, give the most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Romish church, as far as the laws of Great Britain permit. His Britannic majesty further agrees that the French inhabitants, or others, who had been the subjects of the most Christian king in Canada, may retire with all safety and freedom where-ever they shall think proper, and may sell their estates, provided it be to subjects of his Britannic majesty, and bring away their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever except that of debts, or of criminal prosecutions ; the term, limited for this emigration, shall be fixed to the space of eighteen months, to be computed from

the day of the exchange of the ratifications of the present treaty.

V. The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, such as is specified in the 13th article of the treaty of Utrecht; which article is renewed and confirmed by the present treaty, (except what relates to the island of Cape Breton, as well as to the other islands, and coasts in the mouth and in the gulph St. Lawrence): and his Britannic majesty consents to leave the subjects of the most Christian king the liberty of fishing in the gulph of St. Lawrence, on condition that the subjects of France do not exercise the said fishery, but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent, as those of the islands situated in the said gulph of St. Lawrence. And as to what relates to the fishery on the coast of the island of Cape Breton out of the said gulph, the subjects of the most Christian king shall not be permitted to exercise the said fishery, but at the distance of fifteen leagues from the coasts of the island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said gulph, shall remain on the foot of former treaties.

VI. The king of Great Britain cedes the islands of St. Pierre and Miquelon, in full right, to his most Christian majesty, to serve as a shelter to the French fishermen; and his said Christian majesty engages not to fortify the said islands, to erect no buildings upon them, but merely for the convenience of the fishery, and to keep upon them a guard of fifty men only for the police. . . .

XXVI. Their sacred Britannie, most Christian, Catholie, and most Faithful majesties, promise to observe, sincerely, and *bona fide*, all the articles contained and settled in the present treaty; and they will not suffer the same to

be infringed, directly or indirectly, by their respective subjects; and the said high contracting parties, generally and reciprocally, guaranty to each other all the stipulations of the present treaty.

XXVII. The solemn ratifications of the present treaty, expedited in good and due form, shall be exchanged in this city of Paris, between the high contracting parties, in the space of a month, or sooner if possible, to be computed from the day of the signature of the present treaty.

In witness whereof, We the underwritten, their ambassadors extraordinary and ministers plenipotentiary, have signed with our hand, in their name, and in virtue of our full powers, the present definitive treaty, and have caused the seal of our arms to be put thereto.

Done at Paris the 10th of February, 1763.

[L. S.] BEDFORD, C. P. S.

[L. S.] CHOISEUL, Dnc de Praslin.

[L. S.] El Marq. de GRIMALDI.

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## CVII.

### EXTRACTS FROM PROCLAMATION ERECTING THE PROVINCE OF QUEBEC, BY GEORGE III. OF ENGLAND.

OCTOBER 7, 1763.

#### *Sources.*

By a proclamation of George III., October 7, 1763, the territory of Canada was erected into a distinct government under the name of Quebec. The limits defined under this proclamation were used in subsequent negotiations and boundary commissions.

The proclamation is in the "Annual Register" (1763), 208-213; in both French and English in "A Collection of the Acts passed in the Parliament of Great Britain, and of Other Public Acts relative to Canada," (printed by P. E. Desbarats, Quebec, 1800), 26-34; "Statement on the Part of the United States of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix XVII., 165-168; "American Archives, a Documentary History of the North American Colonies" (Washington, 1837), 4th Series, I., 172-175; David Mills, M. P. "A Report on the Boundaries of the Province of Ontario" (Toronto, 1873), Appendix F., 192-198; William Houston, "Documents Illustrative of the Canadian Constitution" (Toronto, 1891), 67-71; Channing and Hart, "American History Leaflets," No. 5, pp. 10-16; and William Macdonald, "Select Charters and Other Documents illustrative of American History, 1606-1775" (New York, 1899), 267-272.

In "Massachusetts Archives," V., there is inserted a printed sheet with the Royal Proclamation as it was first made public, and that is the text adopted for the following extracts.

*Text.*

BY THE KING  
A PROCLAMATION  
GEORGE R.

WHEREAS we have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to Our Crown by the late Definitive Treaty of Peace, concluded at Paris the 10th day of February last; and being desirous, that all Our loving subjects, as well of our Kingdoms as of our Colonies in America, may avail themselves, with all convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation; We have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all Our

loving subjects, that we have, with the Advice of our said Privy Council, granted our Letters Patent under Our Great Seal of Great Britain, to erect within the Countries and Islands, ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, stiled and called by the names of Quebec, East Florida, West Florida and Grenada, and limited and bounded as follows; viz.

First. The Government of Quebec, bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River, through the lake St. John, to the South end of the Lake nigh Pissin, from whence the said Line crossing the River St. Lawrence, and the Lake Champlain in Forty-five degrees of North latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Gulf of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of St. John. . . .

Fourthly. The Government of Grenada, comprehending the Island of that Name, together with the Grenadines, and the Islands of Dominico, St. Vincents, and Tobago. And to the end that the open and free Fishery of Our Subjects may be extended to, and carried on, upon the Coast of Labrador and the adjacent Islands, we have thought fit, with the advice of Our said Privy Council, to put all that Coast from the river St. John's to Hudson's Streights, together with the Islands of Anticosty and Madelaine, and all smaller Islands lying upon the said Coast, under the Care and Inspection of our Governor of Newfoundland.

We have also with the advice of our Privy Council, thought fit to annex the Islands of St. John's, and Cape Breton, or Isle Royale, with the lesser Islands adjacent thereto, to Our Government of Nova Scotia. . . .

Given at Our Court at Saint James's, the Seventh Day of October, One thousand seven hundred and sixty-three, in the Third Year of Our Reign.

*God save the King.*

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### CVIII.

#### EXTRACT FROM THE QUEBEC ACT, BY THE PARLIAMENT OF GREAT BRITAIN.

JUNE 18, 1774.

##### *Sources.*

The Quebec Act, which passed the House of Lords June 18, 1774, and received the royal sanction June 22, in the fourteenth year of the reign of George III., is often named in popular handbooks on American history as one of the "intolerable acts" which hastened the American revolution. The title, however, simply designates it as "An Act for making more effectual provision for the government of the Province of Quebec, in North America." On account of its reference to boundaries, the act has a special relation to the territorial history of Maine. Although in a transposed order, the limits are those defined in the Royal Proclamation of 1763.

The Quebec Act is in Danby Pickering, editor, "The Statutes at Large" (Cambridge, 1773), XXX., 549-564; in both French and English, in "A Collection of the Acts Passed in the Parliament of Great Britain, and of Other Public Acts Relative to Canada" (printed by W. Vondenvelden, law-printer, Quebec, 1797), 5-15; "American

Archives, a Documentary History of the North American Colonies" (Washington, 1837), 4th Series, I., 215-219; and extracts are in the "Report of the Regents of the University on the Boundaries of the State of New York" (Albany, 1874), 90-92; also in "Statement on the Part of the United States of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix XVIII., 169.

That the text might be available to students who could not have access to the large libraries it was printed entire from a copy in the Parliamentary Library, Ottawa, by William Kingsford, "The History of Canada" (London and Toronto, 1892), V., 256-261; it is also printed by William Houston, "Documents Illustrative of the Canadian Constitution" (Toronto, 1891), 90-96.

An extract which gives the boundary lines laid down by the Quebec Act is reprinted from "The Statutes at Large."

*Text.*

WHEREAS his Majesty, by his royal proclamation, bearing date the seventh day of October, in the third year of his reign, thought fit to declare the provisions which had been made in respect to certain countries, territories, and islands in America, ceded to his Majesty by the definitive treaty of peace, concluded at Paris on the tenth day of February one thousand seven hundred and sixty-three: and whereas, by the arrangements made by the said royal proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left, without any provision being made for the administration of civil government therein; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, and

thereby subjected to regulations inconsistent with the nature of said fisheries : may it therefore please your most exceilent Majesty that it may be enacted ; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all the territories, islands, and countries in North America, belonging to the crown of Great Britain, bounded on the south by a line from the bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the river Saint Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river Saint Lawrence ; from thence up the eastern bank of the said river to the lake Ontario ; thence through the lake Ontario, and the river commonly called Niagara ; and thence along by the eastern and south-eastern bank of lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the charter of the province of Pensylvania in case the same shall be so intersected ; and from thence along the said northern and western boundaries of the said province, until the said western boundary strike the Ohio ; But in case the said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said province of Pensylvania ; and thence, by a right line, to the said north-western angle of the said province ; and thence along the western boundary of the said province, until it strike the river Ohio ; and along the bank of the said river, westward, to the banks of the Mississippi, and northward to the southern boundary of the

territory granted to the Merchants Adventurers of England, trading to Hudson's Bay; and also all such territories, islands, and countries which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of the province of Quebec, as created and established by the said royal proclamation of the seventh of October, one thousand seven hundred and sixty-three.

II. Provided always, that nothing herein contained, relative to the boundary of the province of Quebec, shall in any wise affect the boundaries of any other colony.

III. Provided always, and be it enacted, That nothing in this act contained shall extend, or be construed to extend, to make void, or to vary or alter any right, title or possession, derived under any grant, conveyance, or otherwise howsoever, of or to any lands within the said province, or the provinces thereto adjoining; but that the same shall remain and be in force, and have effect, as if this act had never been made. . . .

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## CIX.

### EXTRACTS FROM THE CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS, RATIFIED BY THE PEOPLE.

OCTOBER 25, 1780.

#### *Sources.*

Until 1776 Massachusetts claimed to act under the charter of William and Mary, which England had ignored; in 1777-78 the General Court, acting as a convention, drew up a

constitution which the people failed to ratify. The “Frame of Government” which was agreed upon by delegates in convention at Cambridge, 1779-80, was ratified by the people in 1780. Although Massachusetts was the last of the original states to form a definite constitution, hers was the first state constitution which was ratified by popular vote. “The Commonwealth” as an official title is a designation which only three other states in the Union have chosen, viz.: Pennsylvania, Vermont and Kentucky. Although the provisions of the constitution of 1780 allowed amendments after fifteen years, it was not until the separation of Maine from Massachusetts in 1820 that a convention was called to revise the Frame of Government. When the constitution was ratified the District of Maine contained but three counties, and was entitled to but four senators in the General Court.

The constitution of 1780 has been frequently printed; prefixed to “Acts and Laws of the Commonwealth of Massachusetts” (Boston, 1781), 3-24; also to “The Perpetual Laws of the Commonwealth of Massachusetts . . .” (Boston, 1787), 9-27; and “The General Laws of Massachusetts” (Boston, 1823), I., 12-40. It is in Ben: Perley Poore, “The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States” (Washington, 1877), 956-973; also in Franklin B. Hough, “American Constitutions; comprising the Constitutions of each State in the Union, and of the United States” (Albany, 1872), I., 621-659.

These extracts from the Frame of Government are reprinted from “Acts and Laws.”

*Text.*

## PART THE SECOND.

### THE FRAME OF GOVERNMENT.

THE People inhabiting the territory formerly called the Province of Massachusetts-Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body-politic, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.  
THE LEGISLATIVE POWER.  
SECTION I.  
THE GENERAL COURT.

Art. I. THE department of legislation shall be formed by two branches, a Senate and House of Representatives : each of which shall have a negative on the other.

The legislative body shall assemble every year on the last Wednesday in May, and at such other times as they shall judge necessary ; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May ; and shall be stiled THE GENERAL COURT of MASSACHUSETTS. . . .

CHAPTER I.  
SECTION II.  
SENATE.

Art. I. THERE shall be annually elected by the free-holders and other inhabitants of this Commonwealth, qualified as in this Constitution is provided, forty persons to be Counsellors and Senators for the year ensuing their election ; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the General Court for that purpose : And the General Court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts ; and timely made known to the inhabitants of the Commonwealth, the limits of each district, and the number of Counsellors and Senators to be chosen therein ; provided that the number of such districts shall never be less than thirteen ; and that no district shall be so large as to entitle the same to choose more than six Senators.

And the several counties in this Commonwealth shall, until the General Court shall determine it necessary to alter the said districts, be districts for the choice of Counsellors and Senators (except that the counties of Dukes-County and Nantucket shall form one district for that purpose) and shall elect the following number for Counsellors and Senators, viz.

|                |                     |
|----------------|---------------------|
| Suffolk Six    | York Two            |
| Essex Six      | Duke's County } One |
| Middlesex Five | and Nantucket }     |
| Hampshire Four | Worcester Five      |
| Plymouth Three | Cumberland One      |
| Barnstable One | Lincoln One         |
| Bristol Three  | Berkshire Two       |

### CHAPTER I. SECTION III. HOUSE OF REPRESENTATIVES.

Art. I. THERE shall be in the Legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

II. And in order to provide for a representation of the citizens of this Commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty rateable polls, may elect one Representative: every corporate town, containing three hundred and seventy-five rateable polls, may elect two Representatives: every corporate town, containing six hundred rateable polls, may elect three Representatives; and proceeding in that manner, making two hundred and twenty-five rateable polls the mean increasing number for every additional Representative.

Provided nevertheless, That each town now incorporated, not having one hundred and fifty rateable polls, may elect one Representative: But no place shall hereafter be incorporated with the privilege of electing a Representative, unless there are within the same, one hundred and fifty rateable polls. . . .

CHAPTER II.  
EXECUTIVE POWER.  
SECTION I.  
GOVERNOR.

Art. I. THERE shall be a supreme executive Magistrate, who shall be stiled, THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be—  
**HIS EXCELLENCY.**

II. The Governor shall be chosen annually: And no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding; and unless he shall, at the same time, be seized in his own right, of a freehold within the Commonwealth, of the value of one thousand pounds; and unless he shall declare himself to be of the Christian religion. . . .

CHAPTER II.  
SECTION II.  
**LIEUTENANT-GOVERNOR.**

Art. I. THERE shall be annually elected a Lieutenant-Governor of the Commonwealth of MASSACHUSETTS, whose title shall be—**HIS HONOUR**—and who shall be qualified, in point of religion, property and residence in the Commonwealth, in the same manner with the Governor . . .

II. The Governor, and in his absence the Lieutenant-Governor, shall be President of the Council, but shall have no vote in Council: And the Lieutenant-Governor shall always be a member of the Council, except when the chair of the Governor shall be vacant.

III. Whenever the chair of the Governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the Lieutenant-Governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the Governor, and shall have and exercise all the powers and authorities which by this Constitution the Governor is vested with, when personally present.

## CHAPTER II.

### SECTION III.

#### COUNCIL, &c.

Art. I. THERE shall be a Council for advising the Governor in the executive part of government, to consist of nine persons besides the Lieutenant-Governor, whom the Governor for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

II. Nine Counsellors shall be annually chosen from among the persons returned for Counsellors and Senators, on the last Wednesday in May, by the joint ballots of the Senators and Representatives assembled in one room: And in case there shall not be found upon the first choice, the whole number of nine persons, who will accept a seat in the Council, the deficiency shall be made up by the electors

aforesaid, from among the people at large; and the number of Senators left, shall constitute the Senate for the year. The seats of the persons thus elected from the Senate, and accepting the trust, shall be vacated in the Senate.

III. The Counsellors, in the civil arrangement of the Commonwealth, shall have rank next after the Lieutenant-Governor.

## CHAPTER VI.

VI. All the laws which have heretofore been adopted, used and approved, in the Province, Colony or State of Massachusetts Bay, and usually practiced on in the courts of law, shall still remain and be in full force, until altered or repealed by the Legislature; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution.

VII. The privilege and benefit of the writ of habeas-corpus shall be enjoyed in this Commonwealth in the most free, easy, cheap, expeditious and ample manner, and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time not exceeding twelve months.

VIII. The enacting stile, in making and passing all acts, statutes and laws, shall be — “Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same.”

X. In order more effectually to adhere to the principles of the Constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary — the General Court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the Selectmen of the several towns, and to the Assessors of the unincorporated plantations, directing them

to convene the qualified voters of their respective towns and plantations for the purpose of collecting their sentiments on the necessity or expediency of revising the Constitution, in order to amendments.

And if it shall appear by the returns made, that two-thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favour of such revision or amendment, the General Court shall issue precepts, or direct them to be issued from the Secretary's office to the several towns to elect delegates to meet in Convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their Representatives in the second branch of the Legislature are by this Constitution to be chosen.

XI. This Form of Government shall be enrolled on parchment and deposited in the Secretary's office, and be a part of the laws of the land—and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

JAMES BOWDOIN, PRESIDENT.

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CX.

EXTRACTS FROM THE DEFINITIVE TREATY OF  
PEACE BETWEEN THE UNITED STATES  
AND GREAT BRITAIN.

SEPTEMBER 3, 1783.

*Sources.*

By the definitive treaty of peace signed at Paris, September 3, 1783, Great Britain not only recognized the independence of the United States of America, but she also relinquished all claims to territory within the limits of the

independent states. Under the treaty the northern boundary of the present state of Maine was laid down in accordance with the proclamation of 1763 and the Quebec Act of 1774. Although the eastern boundary was for the first time defined, it was left for subsequent treaties to determine the true location of the limits specified.

Official correspondence relative to the negotiations has been published by Jared Sparks, editor, "The Diplomatic Correspondence of the American Revolution . . ." (Boston, 1829, 1830), and the "Works of Benjamin Franklin" (Boston, 1840); also under direction of Congress; also by Francis Wharton, editor, "The Revolutionary Diplomatic Correspondence of the United States" (Washington, 1889). The text of the treaty has been printed so many times that it is difficult to make a complete bibliography. It was printed often in journals of that period; "The Annual Register" (1783, second edition), 339-342; "The Remembrancer; or Impartial Repository of Public Events" (1783), part ii., 337-340; "The Political Magazine and Parliamentary, Naval, Military, and Literary Journal" (1783), part iv., 309-311; and preliminary articles in "The London Magazine . . ." (1783), 48, 49. With ratification by the Continental Congress, January 14, 1784, and the proclamation of the same date, it is in "Journal of the United States in Congress Assembled: containing the Proceedings from the third day of November, 1783, to the third day of June, 1784" (Philadelphia, 1784), IX., 24-32; also "Secret Journals of the Acts and Proceedings of Congress, 1781-1786," (published under the direction of the United States conformably to a resolution of Congress, Boston, 1821), III., 433-442, with ratification and proclamation, 442-446, and "Senate Ex. Docs. 41 Cong., 3 Sess, No. 36." Other early sources are prefixed to "The Perpetual Laws of the Commonwealth of Massachusetts" (Boston, 1789), 29-33; in "A Collection of the Acts Passed in the Parliament of Great Britain, and of Other Public Acts relative to Canada" (printed by P. E. Desbarats, Quebec, 1800); and Geo. Fréd. de Martens, "Recueil de Traités . . . des Puissances et etats de l'Europe" (Gottingue, 1818), III., 553-559; and among other texts it is printed in a "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1827), Appendix I., 11-14; in "All the

Treaties between the United States of America and Foreign Nations," in "Statutes at Large of the United States of America" (published by authority of Congress, Boston, 1846), VIII., 180-183; by John H. Haswell, compiler, "Treaties and Conventions concluded between the United States of America and Other Powers since July 4, 1776" (Washington, 1889), 375-379, and in many recent compilations.

The text adopted for this reprint is that of the "Journals of Congress."

*Text.*

In the name of the most holy and undivided Trinity.

IT having pleased the Divine Providence to dispose the hearts of the most serene and most potent Prince, George the third, by the grace of God king of Great-Britain, France and Ireland, defender of the faith, duke of Brunswick and Lunenburgh, arch-treasurer and prince elector of the holy Roman empire, &c. and of the United States of America, to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restore; and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantage and mutual convenience, as may promote and secure to both perpetual peace and harmony; and having for this desirable end, already laid the foundation of peace and reconciliation, by the provisional articles, signed at Paris, on the 30th of November 1782, by the commissioners empowered on each part, which articles were agreed to be inserted in and to constitute the treaty of peace proposed to be concluded between the crown of Great-Britain and the said United States, but which treaty was not to be concluded until terms of peace should be agreed upon between Great-Britain and France, and his Britannic Majesty should be ready to conclude such treaty accordingly; and the

treaty between Great-Britain and France having since been concluded, his Britannic Majesty and the United States of America, in order to carry into full effect the provisional articles abovementioned according to the tenor thereof, have constituted and appointed, that is to say, his Britannic Majesty on his part, David Hartley, esquire, member of the parliament of Great-Britain, and the said United States on their part, John Adams, esquire, late a commissioner of the United States of America at the court of Versailles, late a delegate in Congress from the state of Massachusetts, and chief justice of the said state, and minister plenipotentiary of the said United States to their High Mightinesses the states general of the United Netherlands, Benjamin Franklin, esquire, late delegate in Congress from the state of Pennsylvania, president of the convention of the said state, and minister plenipotentiary from the said United States of America at the court of Versailles; John Jay, esquire, late president of Congress, and chief justice of the state of New York, and minister plenipotentiary from the said United States at the court of Madrid, to be the plenipotentiaries for the concluding and signing the present definitive treaty: who, after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following articles:

ARTICLE 1st. His Britannic Majesty acknowledges the said United States, viz. New-Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, to be free, sovereign and independent states: that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, propriety and territorial rights of the same, and every part thereof.

ARTICLE 2d. And that all disputes which might arise in future, on the subject of the boundaries of the United States, may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz. from the north west angle of Nova-Scotia, viz. that angle which is formed by a line drawn due north from the source of Saint-Croix river to the highlands ; along the said Highlands which divide those rivers that empty themselves into the river Saint Lawrence from those which fall into the Atlantic ocean, to the north-westernmost head of Connecticut river, thence down along the middle of that river to the forty-fifth degree of north latitude ; from thence by a line due west on said latitude, until it strikes the river Iroquois or Cataraquy ; thence along the middle of the said river into Lake Ontario ; . . . East, by a line to be drawn along the middle of the river Saint-Croix, from its mouth in the bay of Fundy to its source, and from its source directly north to the aforesaid Highlands which divide the rivers that fall into the Atlantic ocean from those which fall into the river Saint Lawrence : comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the bay of Fundy, and the Atlantic ocean ; excepting such islands as now are or heretofore have been within the limits of the said province of Nova Scotia.

ARTICLE 3d. It is agreed, that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland ; also in the gulph of Saint Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish ; and also that the inhabitants of the United States shall have

liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to dry or cure the same on that Island) and also on the coasts, bays, and creeks of all other of his Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbours, and creeks of Nova-Scotia, Magdalen islands and Labrador, so long as the same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose of the inhabitants, proprietors or possessors of the ground.

ARTICLE 4th. It is agreed that creditors on either side, shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted.

ARTICLE 5th. It is agreed that the Congress shall earnestly recommend it to the legislatures of the respective states, to provide for the restitution of all estates, rights and properties, which have been confiscated, belonging to real British subjects, and also of the estates, rights and properties of persons resident in districts in the possession of his Majesty's arms and who have not borne arms against the said United States. And that persons of any other description shall have free liberty to go to any part or parts of the Thirteen United States, and therein to remain twelve months unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties, as may have been confiscated; and that Congress shall also earnestly recommend to the several states a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of

conciliation, which on the return of the blessings of peace should universally prevail. And that Congress shall also earnestly recommend to the several states, that the estates, rights and properties of such last mentioned persons shall be restored to them; they refunding to any persons who may be now in possession the bona fide price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights or properties since the confiscation. And it is agreed that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

ARTICLE 6th. That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons for or by reason of the part which he or they may have taken in the present war; and that no person shall on that account, suffer any future loss or damage, either in his person, liberty or property, and that those who may be in confinement on such charges, at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

ARTICLE 7th. There shall be a firm and perpetual peace between his Britannic Majesty and the said states, and between the subjects of the one, and the citizens of the other, wherefore all hostilities both by sea and land, shall from henceforth cease; all prisoners on both sides shall be set at liberty, and his Britannic Majesty shall with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons and fleets from the said United States, and from every post, place and harbour within the same; leaving in all fortifications the American artillery that may be therein, and shall also order and

cause all archives, records, deeds and papers, belonging to any of the said states, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper states and persons to whom they belong.

ARTICLE 9th. In case it should so happen, that any place or territory belonging to Great-Britain or to the United States, should have been conquered by the arms of either from the other, before the arrival of the said provisional articles in America, it is agreed that the same shall be restored without difficulty, and without requiring any compensation.

ARTICLE 10th. The solemn ratifications of the present treaty expedited in good and due form shall be exchanged between the contracting parties in the space of six months, or sooner if possible, to be computed from the day of the signature of the present treaty.

In witness whereof, we the undersigned, their ministers plenipotentiary, have in their name, and in virtue of our full powers, signed with our hands the present definitive treaty, and caused the seals of our arms to be affixed thereto.  
DONE at Paris, this third day of September, in the year of our Lord, one thousand seven hundred and eighty-three.

(L. S.) D. HARTLEY, (L. S.) JOHN ADAMS,  
(L. S.) B. FRANKLIN,  
(L. S.) JOHN JAY.

## CXI.

ACT CONFIRMING TREATY WITH PENOBCOT TRIBE  
OF INDIANS, BY THE GENERAL COURT OF  
MASSACHUSETTS.

OCTOBER 11, 1786.

*Sources.*

The act passed by the General Court of Massachusetts, October 11, 1786, whereby a treaty made with the Penobscot tribe of Indians was confirmed, is the first of a series of negotiations with Indian tribes which was begun by the commonwealth of Massachusetts, and finally assumed by the State of Maine.

The act is reprinted from the "Acts and Laws of the Commonwealth of Massachusetts" (Boston, 1786), Chapter I., pp. 487, 488.

*Text.*

WHEREAS by a resolve of the General Court of the sixth day of July, in the present year, Benjamin Lincoln, Thomas Rice and Rufus Putnam, Esquires, were appointed Commissioners to treat with the Penobscot tribe of Indians, respecting their claims to lands on Penobscot-River: And whereas the said Commissioners did, on the thirtieth day of August, in the present year, make report of an agreement entered into, between them, the Commissioners, and the said Penobscot tribe of Indians: which report is in the words following, viz.

It was agreed by the said Indians on their part, that they would relinquish all their claims and interests to all the lands on the west side of Penobscot-River, from the head of the tide up to the River Pasquataquis, being about forty-three miles; and all their claims and interest on the east

side of the River from the head of the tide aforesaid, up to the River Mantawomkuktook, being about eighty-five miles ; reserving only to themselves the Island on which the old Town stands, about ten miles above the head of the tide, and those Islands on which they now have actual improvements, in the said River, lying from Sunkhaze-River, about three miles above the said old Town, to Passadunkee-Island inclusively, on which Island their new Town, so called, now stands. In consideration hereof, WE, in the name and in behalf of the Commonwealth, engage that the Indians should hold and enjoy in fee, the Islands reserved as aforesaid, and the fee of two Islands in the Bay called and known by the name of White-Island and Black-Island, near Naskeeg-Point : And WE further agreed, that the lands on the west side of the River Penobscot, to the head of all the waters thereof, above the said River Pasquataquis, and the lands on the east side of the River to the head of all the waters thereof, above the said River Mantawomkuktook, should lye as hunting ground for the Indians, and should not be laid out or settled by the State or engrossed by individuals thereof : And WE further agreed as aforesaid, to make the Indians a present of three hundred and fifty blankets, two hundred pounds of powder, with a proportion of shot and flints : Therefore,

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the agreement expressed in the report herein before recited, be, and it is hereby ratified and confirmed on the part of this Commonwealth ; and the Governour with the advice of Council, is hereby authorized and empowered to appoint and commission some suitable person to repair to the said Penobscot tribe of Indians, to carry into execution the said agreement, to deliver the blankets, powder, shot and flints mentioned therein ; and to receive from the said

tribe of Indians a deed of relinquishment in due form, of the lands mentioned in, and conformable to the said agreement; and when the said deed of relinquishment shall be executed as aforesaid, this act shall be considered as a compleat and full confirmation of the agreement herein before recited, agreeably to the true intent and meaning thereof. And a copy of this act, under the signature of the Governour, with the seal of the Commonwealth affixed, shall be delivered to the Indians, by such person as the Governour shall commission to execute this business.

[This act passed October 11, 1786.]

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## CXII.

### LOTTERY ACT FOR THE SALE OF EASTERN LANDS, BY THE GENERAL COURT OF MASSACHUSETTS.

NOVEMBER 14, 1786.

#### *Sources.*

From the time when Maine was consolidated with the Province of Massachusetts Bay by the charter of William and Mary in 1691, until the final separation in 1820, the public lands in Maine were generally disposed of by the General Court of Massachusetts, although the management and disposition were to a certain extent regulated by the Land Office which was established in 1783. The Land Lottery Act of 1786 is entitled "An Act to bring into the public Treasury the Sum of one Hundred and Sixty-three Thousand, and two Hundred Pounds, in public Securities by a Sale of a Part of the Eastern Lands; and to establish a Lottery for that Purpose." In those days when public lotteries were held for the purpose of raising funds to repair highways, build bridges, endow institutions, and even to provide an orrery for Harvard College, it was in the order

of established custom that the pressure of debt in the commonwealth should be relieved by the casting of fifty eastern townships into a lottery. In 1788, an additional act enabled the proprietors to exchange with the commonwealth their lots drawn in the lottery. In connection with this lottery act it is interesting to note the forms of punishment sanctioned by law little more than a century ago.

The text adopted is from the "Acts and Laws of the Commonwealth of Massachusetts" (Boston, 1786), I., part ii., chapter 12, pages 513-516.

*Text.*

WHEREAS by a speedy sale of the Eastern lands belonging to this Commonwealth, for the public securities, the debt of this Commonwealth, may be reduced; the burden of the necessary taxes, diminished, and the settlement and improvement of the vacant land greatly promoted: And whereas the sale of the said lands may be facilitated by establishing a public Lottery therefor: Wherefore,

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That a lottery be, and hereby is granted and established for the sale of the following fifty townships of land, in the county of Lincoln, each of the contents of six miles square, and laying between the rivers Penobscot and Schudic, by Lottery-Tickets of sixty pounds each, to wit. Townships number seven, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven, being fifteen townships in the east division, so called; and townships, numbered from fourteen inclusive to forty-three inclusive, being thirty townships in the middle division so called; and townships, number two, three, four, five, and six, in the northern division, and southern range, so called. The whole tract bounded as follows, viz. Beginning at the north-west corner of township number

eight, in the aforesaid middle division; from thence running north, thirty miles; then east six miles; then north six miles; then east thirty miles; then south six miles; then east to Schudue-River; then down the middle of that river (through the Schudue-Ponds) to the south-east corner of township number seven, in the east division, being a heap of stones by a rock-maple tree on the west bank of Schudue-River, marked thus  $\wedge$  1764; then south forty-five degrees west, two miles one hundred eighteen rods, to a heap of stones and white-pine tree marked, on the north-east side of Meddy-Bemps Lake or Pond, so called; then southerly through said pond to the out-let thereof, or beginning of Denney's River, to a white-pine tree on the west bank thereof, marked for the north-east corner of number ten in said east division; then south eighty-one degrees west, one mile one hundred rod, to a spruce tree the north-west corner of number ten; then south nine degrees east, seven miles, to the north line of number twelve; then south eighty-one degrees west, to the east line of Machias; then north ten degrees west on Machias line, to the north-east corner thereof; then south eighty degrees west, eight miles, to the north-west corner of Machias; then south ten degrees east, to the north-east corner of number twenty-two in said east-division; then south eighty degrees west, six miles one hundred and fifty rod, to a beach-tree, the north-west corner of number twenty-two on the east line of number thirteen, in the middle division, then north to the north-east corner of said number thirteen, twelve, eleven, ten, nine and eight, to the first mentioned bounds.

Provided nevertheless, That there be reserved out of each township, four lots of three hundred and twenty acres each, for public uses, to wit. One for the use of a public Grammar-School forever; one for the use of the Ministry; one for the first settled Minister, and one for the benefit of

public education in general, as the General Court shall hereafter direct.

And be it further enacted by the authority aforesaid, That two thousand seven hundred and twenty Tickets, be printed off, and sold for sixty pounds each ; and that the said fifty townships, be delineated and numbered on a plan or plans, to be made and entered in a book for that purpose ; and that the residue of the said townships, after making the reservations before-mentioned, be divided into as many lots, to be drawn as prizes, as there are Tickets, and be numbered accordingly : and that there shall be one lot or prize of a township, two prizes of half a township each ; four prizes of a quarter of a township each ; six prizes of three miles by two miles each ; twenty prizes of two miles by two miles each ; forty prizes of three miles by one mile each ; one hundred and twenty prizes of two miles by one mile each ; four hundred prizes of one mile square each ; seven hundred and sixty-one prizes of one mile by half a mile each ; and thirteen hundred and sixty-six prizes of half a mile square each ; reserving nevertheless, as is in this act before-mentioned ; making in the whole, two thousand seven hundred and twenty lots or prizes.

And be it further enacted by the authority aforesaid, That the several purchasers and proprietors of the Tickets in the same Lottery, shall be intitled to have and hold to themselves, their heirs and assigns, forever, such prize lots of the said fifty townships, as may be drawn by their Tickets respectively, upon producing the same to the Secretary of the Commonwealth, within six months after drawing the said Lottery ; and having the same registered by him as is herein after provided : and such registry shall enure and operate to all intents and purposes, as a grant of the same lots respectively, on behalf of this Commonwealth, to the proprietor or proprietors of the Tickets so drawing the

same, without any other or further deed of writing whatever; and an attested copy of such registry shall be sufficient evidence of the party's title to the same.

And be it further enacted by the authority aforesaid, That the Hon. Samuel Phillips, and Nathaniel Wells, Esquires, and John Brooks, Leonard Jarvis and Rufus Putnam, Esquires, be, and they hereby are appointed Managers of the said Lottery; and shall be sworn to the faithful performance of their trust; and that they procure the said Tickets to be printed on good paper, and number and check the same; and that they lay down in a book and number the townships and lots as aforesaid; and that they publish the foregoing Scheme of this Lottery, in such of the public news-papers, as they may judge best, in order to promote a speedy sale of the Tickets. And that, immediately on drawing the said Lottery, they publish an account of the numbers and prizes in one of the public news-papers, and forthwith return to the Secretary the book and plans aforesaid, of the said township and lots, together with an account of the list of the numbers and prizes drawn by the respective numbers, in opposite columns, fairly entered therein, and sign the same book, and annex their seals to their names respectively.

And be it further enacted by the authority aforesaid, That when the proprietor of a Ticket, shall produce the same to the Secretary, the said Secretary shall enter and register in the book, so to be returned to him by the Managers, against the number of such Ticket and the prize lot it may have drawn, the name of such proprietor, with the place of his abode, and his addition, in three distinct columns, and certify the amount of the prize on the back of such Ticket, and deliver the same to the proprietor thereof, if he shall request it, without demanding therefor, any fee or reward.

And be it further enacted by the authority aforesaid, That the said Lottery shall commence drawing in the town of Boston, on the first Wednesday of March next, at furthest ; and in case all the Tickets shall not be sold before the said first Wednesday of March, that then the said Managers may, and shall proceed forthwith to draw the same ; and such Tickets as may remain unsold on the said first Wednesday of March, shall be the property of this Commonwealth, And the Managers aforesaid shall previous to their beginning to draw the said Lottery, then deposit the Tickets which remain so unsold, in the Treasurer's office, with a list of their numbers respectively.

And be it further enacted, That the said Tickets may, and shall be sold, for the consolidated notes of this Commonwealth, or for the public securities of the United States, called final settlements, or for any other public securities on interest of the United States, or of this Commonwealth, or for silver and gold ; and the said Managers are hereby directed accordingly. And in order to encourage the settlement and improvement of the said land :

Be it further enacted by the authority aforesaid, That the said lots of land which shall be so drawn as prize, shall be exempted from every State or Continental land tax, from the date hereof, during the term of fifteen years ; and that no State or Continental tax on the polls of such persons as shall settle and reside on such lots as shall be so drawn as prize, or on their estates actually within the same, shall be levied or assessed for and during the term of fifteen years from the date of this act.

And be it further enacted by the authority aforesaid, That if any person shall forge, counterfeit or alter, or knowingly and willfully act or assist in forging or altering or counterfeiting any Lottery-Ticket that shall be issued by virtue of this act ; or shall pass, utter, exchange or barter

any such altered, forged or counterfeited Ticket, knowing the same to be so forged, counterfeited or altered; or shall forge and counterfeit, or procure to be forged and counterfeited, or knowingly and willfully act or assist, in forging, altering or counterfeiting any letter of attorney, or instrument, or the books of the said Managers, to receive the benefit and advantage of any prize that may be drawn in said Lottery, or to deprive the true and lawful owner thereof; or shall knowingly and fraudulently demand to have any prize Ticket registered for his use, by virtue of such counterfeit or forged letter of attorney or instrument; or shall falsely or deceitfully personate any true and lawful proprietor of a Ticket, thereby transferring, or endeavouring to transfer, and convey the same, or receiving, or endeavouring to receive, the benefit and advantage thereof, as if such offender were the true and lawful owner of the said Ticket, in all or either of the foregoing cases, the person so offending, and being thereof convicted, before the Justices of the Supreme Judicial Court, shall be fined not exceeding one thousand pounds, or less than one hundred pounds, or imprisoned not exceeding twelve months: or be sentenced to be publicly whipped, not exceeding thirty-nine stripes; or to sit on the gallows with a rope about his neck, for the space of one hour; or to be branded, or be sentenced to hard labour, pursuant to the act in such cases lately made and provided; or to suffer all or any of the said punishments, according to the discretion of the said Justices, and the nature and aggravation of the offence.

And be it further enacted by the authority aforesaid, That the said Managers be, and hereby are required, to pay into the treasury of this Commonwealth, as they receive the same, all such sums of money and securities, as may be paid to them for Tickets as aforesaid.

[This act passed November 14, 1786.]

## CXIII.

GRANT OF LANDS AT MT. DESERT TO MADAME DE  
GREGOIRE, BY THE GENERAL COURT OF  
MASSACHUSETTS.

JUNE 29, 1787.

*Sources.*

In response to a petition from Monsieur and Madame De Gregoire to the General Court of Massachusetts, accompanied by a letter from the Marquis de La Fayette, a resolve confirming to them the lands described passed both houses June 29, 1787. By this grant the claims of Madame De Gregoire to territory conferred to her grandfather, Monsieur De La Mothe Cadillac, by Louis XIV., <sup>May 24, June 3,</sup> 1689, were recognized as binding upon the Commonwealth of Massachusetts. The legal right, however, would undoubtedly have been held of trifling worth at any other time than during the years which followed the close of the war of Independence. The formal confirmation of ancient claims was a graceful acknowledgment of services rendered by France, rather than a special act of favor to the individuals immediately concerned.

Naturalization of the Gregoires as American citizens was the only restriction imposed by the General Court for the possession of one half of Mt. Desert with land "on the Maine" consisting of portions of the present towns of Trenton, Lamoine, Hancock and Ellsworth. An act for naturalizing Bartholomé De Gregoire, Maria Theresa De Gregoire, his wife, and their children, was passed by the General Court, October 29, 1787.

Comparison with the Cadillac grant, No. XCIV. of this series of documents, shows that the date cited in the resolve of the General Court is an error which probably arose from the imperfect knowledge of the petitioners.

A copy of the petition is in the archives of Massachusetts; the resolve, which is found in "Resolves of the General Court of the Commonwealth of Massachusetts :" (1787) (Boston),

32, was recorded in the Registry of Deeds for Hancock County, I., 518, and it was published in "Resolves of the General Court of the Commonwealth of Massachusetts, respecting the Sale of Eastern Lands; with the Reports of the Committees appointed to sell said Lands, from March 1, 1781, to June 22, 1803" (Boston, 1803), 70, 71; from the same source it was contributed by Mr. E. M. Hamor of West Eden, Maine, to the "Bangor Historical Magazine" (Bangor, 1889-1890), V., 232.

The text adopted is that of the "Resolves."

*Text.*

Commonwealth of Massachusetts :

In Senate June 29, 1787.

Whereas it appears to this Court, that the lands, claimed by Monsieur and Madame De Gregoire, as described in their petition, were in April, 1691; granted to Monsieur De La Motte Cadillac, by his late Most Christian Majesty Louis XIV, to hold to him as an estate of inheritance, and that said Madame De Gregoire, is granddaughter, and direct heir at law of said De La Motte Cadillac. But whereas by long lapse of possession, the legal title to the said lands, under the said grant, is lost to the heir at law of the said Monsieur De La Motte Cadillac and the said Monsieur and Madame De Gregoire, have not any interest or estate now remaining therein, but through the liberality and generosity of this Court, which are not hereafter to be drawn into precedent: And whereas it is the disposition of this court to cultivate a mutual confidence and union between the subjects of his Most Christian Majesty and the citizens of this State, and to cement that confidence and union by every act of the most liberal justice, not repugnant to the rights of their own citizens:

It is therefore Resolved, that there be, and hereby is granted, to the said Monsieur and Madame De Gregoire, all such parts and parcels of the island of Mount Desert and

other islands, and tracts of land particularly described in the grant or patent of his late Most Christian Majesty Louis XIV, to said Monsieur De La Motte Cadillac, which now remains the property of this commonwealth, whether by original right, cession, confiscation or forfeiture, to hold all the aforesaid, parts and parcels of the said lands and islands to them the said Monsieur and Madame De Gregoire, their heirs and assigns, forever.

Provided however, That the committee for the sale of eastern lands, be and they hereby are authorized and fully empowered, to quiet to all or any possessors of, or claimers to the title of any parts of the lands herein described, all such parts and parcels thereof as they the said committee shall think necessary and expedient, and on such consideration and condition, as they the said committee shall judge equitable and just, under all circumstances, conformable to the precedents heretofore established with regard to settlers. And this grant is not to take effect, and it shall not be lawful for the said Monsieur and Madame De Gregoire to take or hold possession of the lands hereby granted, until an act or bill of naturalization has been passed in their favor.

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## CXIV.

### REPORT ON NEW HAMPSHIRE BOUNDARY LINE, BY THE COMMITTEE ON WASTE LANDS.

JANUARY 6, 1790.

#### *Sources.*

The "Committee on Waste Lands for the State of New Hampshire," in accordance with instructions, made a survey of the northern boundary between New Hampshire and

Massachusetts during the year 1789. Although partial surveys had been made before the Revolution, it was not until January 6, 1790, that the Committee on Waste Lands presented a completed report of the survey beyond the point reached by Bryant in 1741.

The report was first printed by Jeremy Belknap, "History of New Hampshire" (Boston, 1792), III., Appendix XV., 399-401; and by Isaac W. Hammond, compiler, "Records of New Hampshire, Miscellaneous Provincial and State Papers, 1725-1800" (Manchester, 1890), XVIII., 807, 808.

The text adopted for this reprint is that of Mr. Hammond from the original document.

*Text.*

We the Subscribers A Committee for ascertaining the Waste Lands in the State of New Hampshire have proceeded to Run the Line on the Easterly Side of Said State the Same Course that the Line was formerly Run and Spotted between this State and the Massachusetts we Begun to measure and Spot at the North East Corner of (Shelburn in this State) and measured on to the Waters of Umbagogue Lake which is Sixteen Mile and two hundred forty Rods then across a branch of Said Lake 54 Rods then fourteen Rods on the Land to a River that is 6 Rods wide and Runs Westerly into Said Lake, then measured on the Land one mile 226 Rods to Said Lake, then a cross the water 40 Rods then over a neck of Land 16 Rods to an arm of Said Lake then a cross the water 235 Rods, then we Continued on our Course 195 Rods to Said Lake then a cross Said Lake about three and half miles, then we measured and Spotted 2 miles and 226 Rods to Margallaway River, that Runs about South-West, and is about 10 Rods wide, Empt' into Amerscoggin River a litle below Said Lake; then we measured on our Course one mile and 70 Rods, and Crossed Said margallaway River again which will more fully appear by the Plan herewith exhibited we Continued on our Line,

measured and Spotted to the High Lands that Divide the water that fall into the River St. Larance and the waters that fall into the Atlantick ocean from the North East Corner of Said Shelburne to Said High Lands is 54 Miles and we marked a tree at the end of Every mile except where miles end on water from one to 54 miles inclusive where we marked a Large Burch that Stands on Said High Lands thus N. E. 54. M. NEW HAMPSHIRE. 1789, for the North East Corner of New Hampshir and piled Stones Round Said tree, then from Said North East Corner where we marked the Burch we measured and Sptoted Southwesterly and westerly along on Said High Lands about Six mile then we Run about west measured and marked a tree at the end of every mile from Said Burch marked 54 mile at the North East Corner of Said State, froni 1 to 17 mile and 200 Rods to the head of the Northwest Branch of Connecti- cut River and marked a fir tree N. H. N. W. 1789 for the North west Corner of New Hampshire, then down Said River or Northwest Branch to the main River about 15 mile where Said branch falls into the Main River about half a mile Below Latitude 45° North which will more fully appear by the Plan the Mountain Streams, and waters are laid down on the Plan very accurate where the Line we Run Crossed them but where they were at Sum distance from our Line we laid them down by Conjecture.

Portsmouth January 6<sup>th</sup> 1790 —

Jn<sup>o</sup> Sullivan }  
Eben<sup>r</sup> Smith } Com-  
Nathan Hoit } mittee  
Jer<sup>h</sup> Eames }

Joseph Crane } Surveyors  
Jer<sup>h</sup> Eames }

## CXV.

DEED OF EASTERN LANDS TO WILLIAM BINGHAM,  
BY THE COMMONWEALTH OF MASSACHUSETTS.

JANUARY 28, 1793.

*Sources.*

Deed No. 1 of Eastern Lands, granted to William Bingham, is the first of a series of the same tenor by which the commonwealth of Massachusetts conveyed more than two million acres of unappropriated land in Maine to William Bingham of Philadelphia. The tracts of land known as "Bingham's Purchase" consisted of the Kennebec Purchase of one million acres, and the Penobscot, or Eastern, Purchase between the Penobscot river and Passamaquoddy bay, of one million one hundred and seven thousand three hundred and ninety-six acres. The terms of the original sale were at the rate of twelve and one-half cents per acre. Since the reservations for ministerial and school funds were similar to provisions in grants to settlers, they furnished a cause for legislation under the Act of Separation.

For further account of Mr. Bingham reference may be had to Mr. W. Allen's article, "Bingham Land," Maine Historical Society, "Collections," VII.

The deeds were executed, one half were delivered, and the other half were retained by the commissioners until stipulated conditions should be fulfilled. The series was recorded in the Land Office, "Eastern Lands, Deeds, &c.," Book No. 2, pp. 180-248. The deed transcribed for this compilation is No. 1 of the series, pp. 180-183. It is believed that not one of the deeds has ever before been printed.

*Text.*

Whereas, the General Court of the Commonwealth of Massachusetts, hath appointed & authorised us the undersigned, a committee, to sell and dispose of the unappropriated lands in the counties of York, Cumberland, Lincoln,

Hancock & Washington, being the Estate of the said Commonwealth, and within the same: And whereas, the said Commonwealth, by us, Samuel Phillips, Leonard Jarvis, and John Read: on the twenty third day of March, in the year of our Lord one thousand seven hundred & ninety two, by certain covenants then by us made, on the part of the said Commonwealth did agree to sell and convey certain of said lands to Henry Jackson & Royal Flint, or their legal representatives, upon, and for the performance of certain conditions by them, on their part, stipulated to be performed and the said Jackson & Flint having by their contracts agreed that William Duer & Henry Knox, and their assigns, should become the representatives of the said Jackson & Flint in the same contracts and agreement: And the said Duer & Knox having by their contracts agreed that William Bingham of the city of Philadelphia and State of Pennsylvania, should become their representative in the same Purchase: and the Covenant made by the said committee on the part of the said Commonwealth and by the said Jackson & Flint on their own part being given up and cancelled, and the said Bingham appearing to purchase the same land.—

Now know all Men by these Presents that the said Commonwealth, by us the said Samuel Phillips, Leonard Jarvis and John Read the Committee of the same as aforesaid, appointed and authorised thereunto as aforesaid, for and in consideration of a large and valuable sum of money, paid into the Treasury of the said Commonwealth by said William Bingham, the receipt whereof is hereby acknowledged, hath granted, bargained and sold, released and confirmed to the said William Bingham, his heirs & assigns forever, And by these Presents, doth give, grant, bargain and sell, release & confirm, unto the said William Bingham, his heirs & assigns forever, one certain tract or parcel of land lying in

the County of Hancock and Commonwealth of Massachusetts, containing sixty one thousand eight hundred & seventy two acres (61872) ; and consists of township number eight, containing twenty three thousand nine hundred and fifty two acres, bounding southerly on part of the township of Sullivan, and part of the township of Trenton — westerly, on part of township number seven, — northerly on lottery township number fourteen, and part of township number fifteen ; excepting and withholding from the whole number of Acres contained in said township number eight, nine thousand nine hundred and fifty two acres, in the Southwesterly part of said township ; also of township number nine, bounding southerly on part of township number seven first abovementioned, and on part of Sullivan, westerly on township number eight, northerly, on part of Lottery township number fifteen, and part of Lottery township number sixteen, & easterly on township number ten, and contains twenty three thousand nine hundred and thirty six acres : also of township number ten, bounding Southerly on part of township number four and part of township number seven, Westerly on township nine, northerly on Part of Lottery township number sixteen & part of Lottery township number seventeen, easterly on township number eleven being the boundary line between the Counties of Hancock & Washington, and contains twenty three thousand nine hundred & thirty six Acres, so as to comprehend within the said boundaries the quantity of Sixty one thousand eight hundred and seventy two acres : reserving four lots of three hundred and twenty acres each in every township or tract of six miles square, for the following purposes, to wit, one for the first settled minister, one for the use of the ministry, one for the use of schools and one for the future appropriation of the General Court, said lots to average in goodness & situation with the other lots of the respective townships :

And also reserving to each of the Settlers who settled on the premises before the first day of July one thousand seven hundred & ninety one, his heirs and assigns forever, one hundred acres of the land, to be laid out in one lot, so as to include such improvements of the said Settlers as were made previous to the said first day of July one thousand seven hundred and ninety one, and be least injurious to the adjoining lands: And each of the said Settlers, who settled before the first day of January one thousand seven hundred & eighty four upon paying to the said William Bingham, his heirs or assigns five Spanish milled dollars, and every other of said Settlers, upon paying to the said William Bingham his heirs or assigns twenty Spanish milled dollars, shall receive from him the said William Bingham, his heirs or assigns, a Deed of one hundred Acres of the said land, laid out as aforesaid, to hold the same in fee — the said Deeds to be given in two years from the date hereof, provided the settlers shall make payment as aforesaid within that period.

To have & to hold the same, with all and singular the privileges appurtenances and immunities thereof, to him the said William Bingham his heirs and assigns forever, to his & their only use & benefit: and the said Commonwealth, doth hereby grant and agree to, and with the said William Bingham his heirs & assigns, that the foregoing Premises are free of every incumbrance, saving always the reservations herein before expressed, and that the same shall be warranted and defended by the said Commonwealth to him the said William Bingham his heirs and assigns forever, saving always the reservation aforesaid: with the immunity of being free from State taxes, untill the first day of July in the year of our Lord one thousand eight hundred & one, conformably to a resolution of the General Court of the said Commonwealth, of the twenty sixth day of March, one

thousand seven hundred & eighty eight, for that purpose made & provided.

In testimony of all which, We the said Samuel Phillips, Leonard Jarvis & John Read, the Committee aforesaid, have hereunto set our hands and seals, the twenty eighth day of January, in the year of our Lord, one thousand, seven hundred and ninety three.

Samuel Phillips. (S)

Signed, Sealed & delivered

Leo : Jarvis. (S)

in presence of —

John Read. (S)

James Sullivan

David Cobb.

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## CXVI.

### TREATY WITH THE PASSAMAQUODDY TRIBE OF INDIANS, BY THE COMMONWEALTH OF MASSACHUSETTS.

SEPTEMBER 29, 1794.

#### *Sources.*

By the treaty with the Passamaquoddy tribe of Indians, September 29, 1794, the commonwealth of Massachusetts set apart for their own peculiar use a reservation of land near the Schoodic river and lake. This treaty on the part of Massachusetts is the basis of the present relations which the State of Maine still holds with the Indians of that tribe.

The treaty is in "Resolves of the General Court of the Commonwealth of Massachusetts" (Boston, 1794), 46, 47, and was reprinted with "Resolves passed by the Twenty-third Legislature of the State of Maine" (Augusta, 1843), 263-266; also by Joseph W. Porter, editor, "Bangor Historical Magazine" (Bangor, 1886, 87), II., 91, 92.

The text adopted is that of "Resolves of the General Court."

*Text.*

To all People to whom this present Agreement shall be made known.

WE, ALEXANDER CAMPBELL, JOHN ALLAN, and GEORGE STILLMAN, Esquires, a Committee appointed and authorized by the General Court of Massachusetts, to treat with and assign certain Lands to the Passamaquoddy Indians, and others connected with them, agreeable to a Resolve of said General Court, of the 26th of June, in the year of our Lord, 1794, of the one part, and the subscribing Chiefs and others, for themselves, and in behalf of the said Passamaquoddy tribe, and others connected with them, of the other part, WITNESSETH — That the said Committee, in behalf of the Commonwealth aforesaid, and in consideration of the said Indians relinquishing all their right, title, interest, claim or demand of any land or lands, lying and being within the said Commonwealth of Massachusetts, and also engaging to be peaceable and quiet inhabitants of said Commonwealth, without molesting any other of the settlers of the Commonwealth aforesaid, in any way or means whatever: In consideration of all which, the Committee aforesaid, for and in behalf of the Commonwealth aforesaid, do hereby assign and set off to the aforesaid Indians, the following tracts or parcels of Land, lying and being within the Commonwealth of Massachusetts, viz.— All those Islands lying and being in Schoodic-river, between the Falls, at the head of the tide, and the Falls below the forks of said river, where the North Branch and West Branch parts, being fifteen in number, containing one hundred acres, more or less — also Township, No. 2, in the 1st range, surveyed by Mr. Samuel Titcomb, in the year of our Lord, 1794, containing about 23,000 acres, more or less, being bounded as follows: Easterly by Tomer's-river, and Township, No. 1, first Range; northerly by Township, No. 2, second

Range; westerly, by Township No. 3, first Range; southerly, by the west branch of Schoodic-river and Lake; also Lues Island, lying in front of said Township, containing ten acres, more or less, together with one hundred acres of Land, lying on Nemcass-point, adjoining the west side of said Township; also Pine-Island, lying to the westward of said Nemcass-point, containing one hundred and fifty acres, more or less; also assign and set off to John Baptiste Lacote, a French Gentleman, now settled among the said Indians, one hundred acres of Land, as a settler in Township, No. 1, first range, lying at the Falls, at the Carrying place, on the north branch of Schoodic-river, to be intitled to have said Land laid out to him in the same manner as settlers in new Townships are intitled; also assign to the said Indians the privilege of fishing on both branches of the river Schoodic, without hindrance or molestation; and the privilege of passing the said river, over the different carrying places, thereon; all which Islands, Townships, Tracts or parcels of Land and privileges, being marked with cross thus  $\times$ , on the plan taken by Mr. Samuel Titcomb, with the reservation of all pine trees, fit for masts, on said tracts of Land, to Government, they making said Indians, a reasonable compensation therefor; also assign and set off to the said Indians, ten acres of Land, more or less, at Pleasant-point, purchased by said Committee, in behalf of said Commonwealth, of John Frost, being bounded as follows, viz.—Beginning at a Stake, to the eastward of the Dwelling-house, end running north, twenty-five degrees, west, fifty four rods; from thence running north, fifty-six degrees, east, thirty-eight rods, to the Bay; from thence by the shore to the first bounds — also a privilege of sitting down at the Carrying-place at West Passamaquoddy, between the Bay of West-Quody, and the Bay of Fundy, to contain fifty acres; the said Islands, Tracts of Land and

Privileges to be confirmed by the Commonwealth of Massachusetts, to the said Indians and their Heirs forever.

IN testimony of all which, we the said ALEXANDER CAMPBELL, JOHN ALLAN and GEORGE STILLMAN, the Committee aforesaid, and in behalf of the Commonwealth, aforesaid, and the Chiefs and other Indians aforesaid, in behalf of themselves, and those connected with them, as aforesaid, have hereunto set our Hands and Seals, at Passamaquoddy, the 29th day of September, in the Year of our Lord, one Thousand seven Hundred and Ninety-four.

Signed and Sealed,                            ALEX CAMPBEL,  
     in presence of                            J. ALLAN,  
     SAMUEL TITCOMB,                            GEORGE STILLMAN.  
     JNO : FROST, Jun.

|   |                  |
|---|------------------|
| FRANCIS JOSEPH<br><sup>his</sup><br>mark<br>X | NEPTUNE, (L. S.) |
| JOHN<br><sup>his</sup><br>mark<br>X           | NEPTUNE, (L. S.) |
| PIER<br><sup>his</sup><br>mark<br>X           | NEPTUNE, (L. S.) |
| JOSEPH<br><sup>his</sup><br>mark<br>X         | NEPTUNE, (L. S.) |
| PIER<br><sup>his</sup><br>mark<br>X           | DENNY, (L. S.)   |
| JONALE<br><sup>his</sup><br>mark<br>X         | DENNY, (L. S.)   |
| JOSEPHI<br><sup>his</sup><br>mark<br>X        | TOMAS, (L. S.)   |

Be it therefore Resolved, That the said Agreement be, and it hereby is ratified and confirmed on the part of this Commonwealth; and that there be allowed and paid out of the Treasury of this Commonwealth to the said Committee, the sum of two hundred pounds; being the consideration

paid to the above-named John Frost, for a Tract of Land on Pleasant-point, purchased by the said Committee; ten acres of which, more or less, as in the before-recited Agreement, is hereby appropriated for the accommodation of the said Indians; said sum to be paid to the said Committee, on their depositing in the Secretary's Office a deed from the said John Frost, of the said tract of Land, on Pleasant-point, duly executed and acknowledged.

And whereas there now remains for the disposition of Government, ninety acres, more or less, of the above-mentioned Lot of Land, on Pleasant-point.

Resolved, That the Treasurer of this Commonwealth be, and he is hereby authorized and empowered to lease the said remaining 90 acres, for one year, or for a term of years, in such manner and on such considerations as he may judge will be most for the advantage of the Commonwealth.

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## CXVII.

### EXTRACTS FROM JAY'S TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN.

NOVEMBER 19, 1794.

#### *Sources.*

The treaty of amity, commerce and navigation, which is known as "Jay's Treaty," from the principal negotiator on the part of the United States, was concluded at London, November 19, 1794. As the fifth article provided for commissioners to determine "what river was truly intended under the name of the river St. Croix," the treaty has an important relation to the territorial history of Maine. It was the first treaty under constitutional government which the United States of America concluded with any foreign

power, and its ratification by the Senate marks an important step in international arbitration.

The treaty was communicated to the Senate by President Washington, June 8, 1795, and was printed, with "Message on the Treaty with Great Britain," Ex. Docs. (misc.) : 4 Cong. 1 sess. pp. 1-32; it was reprinted in "American State Papers, Foreign Relations" (Washington, 1832), I., 520-525; it is also in "Statutes at Large of the United States of America" (Boston, 1846), VIII., 116-131; "Statement on the Part of the United States, of the Case referred, under the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix I., 14-26; and John H. Haswell, compiler, "Treaties and Conventions Concluded between the United States of America and Other Powers since July 4, 1776" (Washington, 1889), 379-394; William Macdonald, "Select Documents Illustrative of the History of the United States, 1776-1861" (New York, 1898), 114-130. Among foreign publications it is found in "Cobbett's Political Register" (London, 1815), 347-352, 381-384; "The Parliamentary History of England" (London, 1818), XXXII., 216-233; "British and Foreign State Papers" (London, 1841), I., part i., 784-801; "A Collection of the Acts Passed in the Parliament of Great Britain, and of Other Public Acts Relative to Canada" (printed by W. Vandenvelden, Quebec, 1796), 6-29; and in both English and French, by Charles de Martens, reviser, "Recueil des Principaux Traités . . . conclus par les Puissances de l'Europe . . ." (Gottingue, 1826), V., 640-688.

The articles which relate to the interests and rights of Maine are reprinted in this compilation from "American State Papers."

#### *Text.*

His Britannic Majesty and the United States of America, being desirous, by a treaty of amity, commerce and navigation, to terminate their differences in such a manner, as, without reference to the merits of their respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding; and also to regulate the commerce and navigation between their respective countries, territories and people, in such a

manner as to render the same reciprocally beneficial and satisfactory ; they have respectively, named their plenipotentiaries, and given them full powers to treat of, and conclude the said treaty ; that is to say : His Britannic Majesty has named for his plenipotentiary, the Right Honorable William Wyndham, Baron Grenville, of Wotton, one of His Majesty's privy council, and his Majesty's principal secretary of state for foreign affairs ; and the President of the said United States, by and with the advice and consent of the Senate thereof, hath appointed, for their plenipotentiary, the Honorable John Jay, Chief Justice of the said United States, and their envoy extraordinary to his Majesty ; who have agreed on and concluded the following articles :

ART. 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship, between his Britannic Majesty, his heirs and successors, and the United States of America ; and between their respective countries, territories, cities, towns, and people, of every degree, without exception of persons or places.

ART. 2. His Majesty will withdraw all his troops and garrisons from all posts and places within the boundary lines assigned by the treaty of peace to the United States. This evacuation shall take place on or before the first day of June, one thousand seven hundred and ninety-six, and all the proper measures shall in the interval be taken by concert between the government of the United States and his Majesty's governor general in America, for settling the previous arrangements which may be necessary respecting the delivery of the said posts : the United States, in the meantime, at their discretion, extending their settlements to any part within the said boundary line, except within the precincts or jurisdiction of any of the said posts. All settlers and traders, within the preeincts or jurisdiction of any of the said posts, shall continue to enjoy, unmolested, all their

property, of every kind, and shall be protected therein. They shall be at full liberty to remain there, or to remove with all or any part of their effects; and it shall also be free to them to sell their lands, houses, or effects; or to retain the property thereof, at their discretion; such of them as shall continue to reside within the said boundary lines shall not be compelled to become citizens of the United States, or to take any oath of allegiance to the government thereof; but they shall be at full liberty so to do if they think proper, and they shall make and declare their election within one year after the evacuation aforesaid. And all persons who shall continue there after the expiration of the said year, without having declared their intention of remaining subjects of His Britannic Majesty, shall be considered as having elected to become citizens of the United States.

ART. 5. Whereas doubts have arisen what river was truly intended under the name of the river St. Croix, mentioned in the said treaty of peace, and forming a part of the boundary therein described, that question shall be referred to the final decision of commissioners, to be appointed in the following manner, viz. :

One commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners shall agree on the choice of a third; or, if they cannot so agree, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the two original commissioners. And the three commissioners, so appointed, shall be sworn impartially to examine and decide the said question, according to such evidence as shall respectively be laid before them on the part of the British Government and of the United States.

The said commissioners shall meet at Halifax, and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. The said commissioners shall, by a declaration, under their hands and seals, decide what river is the river St. Croix, intended by the treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration, and of the statements of their accounts, and of the journal of their proceedings, shall be delivered by them to the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective Governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called into question, or made the subject of dispute or difference between them.

ART. 28. It is agreed that the first ten articles of this treaty shall be permanent, and that the subsequent articles, except the twelfth, shall be limited in their duration to twelve years, to be computed from the day on which the ratifications of this treaty shall be exchanged, but subject to this condition, that, whereas the said twelfth article will expire, by the limitation therein contained, at the end of two years from the signing of the preliminary or other articles of peace which shall terminate the present war in which His Majesty is engaged, it is agreed that proper measures shall, by concert, be taken, for bringing the subject of that article<sup>1</sup> into amicable treaty and discussion, so early before the expiration of the said term, as that new arrangements on that head may, by that time, be perfected, and ready to

<sup>1</sup> Article 12 was for the regulating of commerce between the United States and His Majesty's ports in the West Indies.

take place. But, if it should, unfortunately, happen, that His Majesty and the United States should not be able to agree on such new arrangements, in that case all the articles of this treaty, except the first ten, shall then cease and expire together.

Lastly. This treaty, when the same shall have been ratified by His Majesty, and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them respectively executed and observed, with punctuality and the most sincere regard to good faith. And whereas it will be expedient, in order the better to facilitate intercourse, and obviate difficulties, that other articles be proposed and added to this treaty, which articles, from want of time and other circumstances, cannot now be perfected, it is agreed that the said parties will, from time to time, readily treat of and concerning such articles, and will sincerely endeavor so to form them as that they may conduce to mutual convenience, and tend to promote mutual satisfaction and friendship; and that the said articles, after having been duly ratified, shall be added to, and make a part of, this treaty.

In faith whereof, we, the undersigned, ministers plenipotentiary of His Majesty the King of Great Britain and the United States of America, have signed this present treaty, and have caused to be affixed thereto the seal, of our arms.

Done at London this nineteenth day of November, one thousand seven hundred and ninety-four.

GRENVILLE, [L. S.]  
JOHN JAY. [L. S.]

## CXVIII.

EXPLANATORY ARTICLE TO JAY'S TREATY, BY  
COMMISSIONERS OF THE UNITED STATES  
AND GREAT BRITAIN.

MARCH 15, 1798.

*Sources.*

To obviate certain difficulties which had arisen in determining the latitude and longitude of the St. Croix river under Article V. of the Treaty of Ghent, an explanatory article was added to the treaty in accordance with provisions under Article XXVIII. President John Adams communicated the article to the Senate, May 29, 1798. The explanatory article is printed in "American State Papers, Foreign Relations" (Washington, 1832), II., 183; "Statutes at Large of the United States of America" (Boston, 1846), VIII., 131, 132; "British and Foreign State Papers" (London, 1841), I., part i., 806, 807; in both English and French by Charles de Martens, reviser, "Recueil des Principaux Traités . . . conclus par les Puissances de l'Europe . . ." (Gottingue, 1826), V., 696; and by John H. Haswell, compiler, "Treaties and Conventions Concluded between the United States of America and Other Powers, since July 4, 1776" (Washington, 1889), 396, 397.

The text adopted for this reprint is that of "American State Papers."

*Text.*

Whereas by the twenty-eighth article of the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States, signed at London the 19th November, 1794, it was agreed, that the contracting parties would, from time to time, readily treat of and concerning such further articles, as might be proposed, that they would

sincerely endeavor so to form such articles as that they might conduce to mutual convenience, and tend to promote mutual satisfaction and friendship, and that such articles, after having been duly ratified, should be added to and make a part of that treaty: and whereas difficulties have arisen with respect to the execution of so much of the fifth article of the said treaty, as requires that the commissioners, appointed under the same should, in their description, *particularize* the latitude and longitude of the source of the river which may be found to be the one truly intended in the treaty of peace between His Britannic Majesty and the United States, under the name of the river St. Croix, by reason whereof it is expedient that the said commissioners should be released from the obligation of conforming to the provisions of the said article in this respect, the undersigned being respectively named by His Britannic Majesty and the United States of America, their plenipotentiaries, for the purpose of treating of and concluding such articles as may be proper to be added to the said treaty, in conformity to the above-mentioned stipulation, and having communicated to each other their respective full powers, have agreed and concluded, and do hereby declare, in the name of His Britannic Majesty, and of the United States of America, that the commissioners appointed under the fifth article of the said treaty shall not be obliged to particularize, in their description, the latitude and longitude of the source of the river which may be found to be the one truly intended in the aforesaid treaty of peace, under the name of the River St. Croix, but they shall be at liberty to describe the said river, in such other manner as they may judge expedient, which description shall be considered as a compleat execution of the duty required of the said commissioners, in this respect, by the article aforesaid. And, to the end that no uncertainty may hereafter exist on this subject, it is further

agreed that, as soon as may be after the decision of the said commissioners, measures shall be concerted between the government of the United States and His Britannic Majesty's Governors or Lieutenant Governors in America, in order to erect and keep in repair, a suitable monument, at the place ascertained and described to be the source of the said River St. Croix, which measures shall, immediately thereupon, and as often afterwards as may be requisite, be duly executed on both sides, with punctuality and good faith.

This explanatory article, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to, and make a part of, the treaty of amity, commerce, and navigation, between His Majesty and the United States, signed at London on the 19th day of November, 1794, and shall be permanently binding upon His Majesty and the United States.

In witness whereof, we the said undersigned plenipotentiaries of His Britannic Majesty and the United States of America have signed this present article, and have caused to be affixed thereto the seal of our arms.

Done at London this fifteenth day of March, one thousand seven hundred and ninety-eight.

GRENVILLE, (SEAL)

RUFUS KING, (SEAL)

## CXIX.

DECLARATION UNDER THE FIFTH ARTICLE OF  
JAY'S TREATY, BY THE COMMISSIONERS OF  
THE UNITED STATES AND GREAT BRITAIN.

OCTOBER 25, 1798.

*Sources.*

The declaration of the commissioners under the fifth article of Jay's treaty was signed at Providence, Rhode Island, October 25, 1798. It is interesting to connect the decisions of commissioners with the patent of Acadia, which was issued in 1603, inasmuch as the remains of De Mont's fortification on Neutral Island was the means of determining the true St. Croix. It may also be noted that the town of Amity, which was incorporated in 1836 from Township No. 10, north latitude  $45^{\circ} 56'$ , is, both by Leroe's monument at its northeastern angle and by its name, a memorial of the "treaty of Amity."

The declaration was printed with "Resolves of the Eighth Legislature of the State of Maine" (Portland, 1828), Appendix, pages 735, 736; also "Documents Relating to the North-Eastern Boundary of the State of Maine" (Boston, 1828), No. 12, 162, 163, and the unexecuted declaration (without date), No. 13, 164, 165; and, in part, "House Executive Documents," 27th Cong. 3d sess., No. 31; it is also included in "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix II., 35, 36; "British and Foreign State Papers" (London, 1841), I., part i., 807, 808; and with papers relative to the disputed boundaries between the provinces of Canada and New Brunswick, in "Journals of the Legislative Assembly of the Province of Canada" (1852, 1853), Appendix L. L., No. 42. Other sources are "American State Papers, Foreign Relations" (Washington, 1859), VI., 921, 922; John Bassett Moore, "History and Digest of the International Arbitrations to which

the United States has been a Party, together with appendices . . ." (Washington, 1898), I., 29-31; and the Maine Historical Society, "Collections and Proceedings" (Portland, 1895), 2d Series, VI., 244, 245.

As the text of the "Collections" is based on the "Barclay Correspondence" it is followed in this reprint.

*Text.*

By Thos<sup>s</sup> Barclay, David Howell and Egbert Benson, Commissioners appointed in pursuance of the fifth article of Amity, Commerce and Navigation between His Britannic Majesty and the United States of America finally to decide the question what River was truly intended under the name of the River St. Croix mentioned in the Treaty of Peace between His Majesty and the United States and forming a part of the Boundary therein described.

DECLARATION.

We the said commissioners having been sworn impartially to examine and decide the Question according to such evidence as should respectively be laid before us on the part of the British Government and of the United States, and having heard the evidence which hath been laid before us by the agent of His Britannic Majesty and the Agent of the United States respectively appointed and authorized to manage the Business on Behalf of the respective Gov<sup>t</sup> Have decided and hereby do decide the River hereinafter particularly described and mentioned to be the River truly intended under the name of the River St. Croix in the said treaty of Peace and forming a part of the Boundary therein described that is to say, the mouth of the said River is in *Passamaquoddy Bay* at a Point of Land called Toe's Point<sup>1</sup> about one mile northward from the northern part of *Saint Andrews Island* and on the latitude of 45 degrees 5 minutes and 5 seconds north, and in the longitude of 67 degrees 12 minutes and 30 seconds

<sup>1</sup> Printed in other copies "Ive's Point," or, in most cases, "Joe's Point."

west from the Royal Observatory at Greenwich in Great Britain and 3 degrees 54 minutes and 15 seconds east from Harvard College or the University of Cambridge in the State of Massachusetts, and the Course of the said River up from its said mouth is northerly to a point of Land called the Devils Head then turning the said point is westerly to where it divides into two streams the one coming from the northward having the Indian name of Chiputnate-cook or Chibuitcook as the same may be variously spelt then up the said stream so coming from the northward to its Source, which is at a stake near a Yellow Birch Tree, hooped with Iron and marked S. T. and J. H. 1797 by Samuel Titcomb and John Harris the Surveyors employed to survey the above mentioned stream coming from the north-ward, And the said River is designated on the map hereunto annexed and hereby referred to as farther descriptive of it by the letters A, B, C, D, E, F, G, H, I, K, and L, the letter A being at its mouth, and the Letter L being at its said Source and the course and distance of the said source from the island at the confluence of the above mentioned two Streams is as laid down on the said map north 5 degrees and about 15 minutes west by the magnet about 48 miles and one quarter.

In testimony whereof we have hereunto set our Hands and Seals at Providence in the State of Rhode Island the 25<sup>th</sup> day of October in the year 1798.

THOS BARCLAY, [SEAL]  
DAVID HOWELL, [SEAL]  
EGB<sup>T</sup> BENSON. [SEAL]

Witness

EDWARD WINSLOW, *Sect. to the Comm.*

## CXX.

EXTRACTS FROM THE TREATY OF GHENT,  
BETWEEN THE UNITED STATES AND  
GREAT BRITAIN.

DECEMBER 24, 1814.

*Sources.*

Since the treaty of peace and amity which was signed at Ghent, December 24, 1814, arranged for commissioners to determine the boundaries between the two nations, it is important not only to American diplomacy, but to the territorial history of Maine.

The treaty with message of the president is in "Public Documents," 1814-15, 13 Cong. 3 sess. No. 66, pp., 6-16; in "The Examiner," (1815), 341-346; H. Niles, "Weekly Register," VII., 397-400; "British and Foreign State Papers" (London, 1817), 357-364; and "Statutes at Large of the United States of America" (Boston, 1846), VIII., 218-223. Among other sources it is found in a "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix I., 26-31; Benson J. Lossing, "Pictorial Field Book of the War of 1812" (New York, 1869), Appendix, 1071-1073; and by John H. Haswell, compiler, "Treaties and Conventions concluded between the United States of America and Other Powers since July 4, 1776" (Washington, 1889), 379-394.

The text adopted is that of "Public Documents."

*Text.*

His Britannic majesty and the United States of America, desirous of terminating the war which has unhappily subsisted between the two countries, and of restoring, upon principles of perfect reciprocity, peace, friendship, and good understanding, between them have, for that purpose,

appointed their respective plenipotentiaries, that is to say : his Britannic majesty, on his part, has appointed the right honorable James lord Gambier, late admiral of the white, now admiral of the red squadron of his majesty's fleet, Henry Goulburn, esquire, a member of the imperial parliament, and under-secretary of state, and William Adams, esquire, doctor of civil laws : and the president of the United States, by and with the advice and consent of the senate thereof, has appointed John Quincy Adams, James A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin, citizens of the United States, who after a reciprocal communication of their respective full powers, have agreed upon the following articles :

#### ARTICLE THE FIRST.

There shall be a firm and universal peace, between his Britannic majesty and the United States, and between their respective countries, territories, cities, towns, and people, of every degree, without exception of places or persons. All hostilities, both by sea and land, shall cease as soon as this treaty shall have been ratified by both parties, as hereinafter mentioned. All territory, places, and possessions, whatsoever, taken by either party from the other, during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property. And all archives, records, deeds, and papers, either of a public nature, or belonging to private persons, which in the course of the war, may have fallen into the hands of the officers of either party, shall be, as

far as may be practicable, forthwith restored and delivered to the proper authorities and persons to whom they respectively belong. Such of the islands in the bay of Passamaquoddy as are claimed by both parties, shall remain in the possession of the party in whose occupation they may be at the time of the exchange of the ratification of this treaty, until the decision respecting the title to the said islands, shall have been made in conformity with the fourth article of this treaty. No disposition made by this treaty, as to such possession of the islands and territories claimed by both parties, shall, in any manner whatever, be construed to affect the right of either.

#### ARTICLE THE SECOND.

Immediately after the ratification of this treaty by both parties, as hereinafter mentioned, orders shall be sent to the armies, squadrons, officers, subjects, and citizens, of the two powers, to cease from all hostilities. And to prevent all causes of complaint which might arise on account of the prizes which may be taken at sea after the said ratifications of this treaty, it is reciprocally agreed, that all vessels and effects which may be taken after the space of twelve days from the said ratifications, upon all parts of the coast of North America, from the latitude of fifty degrees north, and as far eastward in the Atlantic ocean as the thirty-sixth degree of west longitude from the meridian of Greenwich, shall be restored on each side: that the time shall be thirty days in all other parts of the Atlantic ocean north of the equinoctial line or equator; and the same time for the British and Irish channels, for the Gulf of Mexico and all parts of the West Indies: forty days for the north seas, for the Baltic, and for all parts of the Mediterranean: sixty days for the Atlantic ocean south of the equator, as far as the latitude of the Cape of Good Hope: ninety days for every

part of the world south of the equator: and one hundred and twenty days for all other parts of the world, without exception.

#### ARTICLE THE THIRD.

All prisoners of war taken on either side, as well by land as by sea, shall be restored as soon as practicable after the ratifications of this treaty, as hereinafter mentioned, on their paying the debts which they may have contracted during their captivity. The two contracting parties respectively engage to discharge, in specie, the advances which may have been made by the other for the sustenance and maintenance of such prisoners.

#### ARTICLE THE FOURTH.

Whereas it was stipulated by the second article in the treaty of peace, of one thousand seven hundred and eighty-three, between his Britannic majesty and the United States of America, that the boundary of the United States should comprehend all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries, between Nova Scotia, on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic ocean, excepting such islands as now are, or heretofore have been, within the limits of Nova Scotia; and whereas the several islands in the bay of Passamaquoddy, which is part of the bay of Fundy, and the island of Grand Menan, in the said bay of Fundy, are claimed by the United States, as being comprehended within their aforesaid boundaries, which said islands are claimed as belonging to his Britannic majesty, as having been at the time of, and previous to, the aforesaid treaty of one thousand seven hundred and eighty-three, within the limits of

the province of Nova Scotia. In order, therefore, finally to decide upon these claims, it is agreed that they shall be referred to two commissioners, to be appointed in the following manner, viz : One commissioner shall be appointed by his Britannic majesty, and one by the president of the United States, by and with the advice and consent of the senate thereof; and the said two commissioners so appointed shall be sworn impartially to examine and decide upon the said claims according to such evidence as shall be laid before them on the part of his Britannic majesty and of the United States respectively. The said commissioners shall meet at St. Andrews in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners shall, by a declaration or report under their hands and seals, decide to which of the two contracting parties the several islands aforesaid do respectively belong, in conformity with the true intent of the said treaty of peace of one thousand seven hundred and eighty-three. And if the said commissioners shall agree in their decision, both parties shall consider such decision final and conclusive. It is further agreed, that in the event of the two commissioners differing upon all or any of the matters so referred to them, or in the event of both or either of the said commissioners refusing or declining, or wilfully omitting to act as such, they shall make, jointly or separately, a report or reports, as well to the government of his Britannic majesty as to that of the United States, stating, in detail, the points on which they differ, and the grounds upon which they or either of them have so refused, declined or omitted to act. And his Britannic majesty and the government of the United States hereby agree to refer the report or reports of the said commissioners to some friendly sovereign or state, to be then named for that purpose, and who shall be requested to decide on the differences

which may be stated in the said report or reports, or upon the report of one commissioner, together with the grounds upon which the other commissioner shall have refused, declined or omitted to act, as the case may be. And if the commissioner so refusing, declining, or omitting to act, shall also wilfully omit to state the grounds upon which he has so done, in such manner that the said statement may be referred to such friendly sovereign or state, together with the report of such other commissioner, then such sovereign or state shall decide ex parte upon the said report alone. And his Britannic majesty and the government of the United States engage to consider the decision of such friendly sovereign or state to be final and conclusive on all the matters so referred.

#### ARTICLE THE FIFTH.

Whereas neither that point of the highlands, lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two powers, as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut river, has yet been ascertained : and whereas that part of the boundary line between the dominions of the two powers, which extends from the source of the river St. Croix directly north to the abovementioned highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the north-westernmost head of Connecticut river, thence down along the middle of that river to the forty-fifth degree of north latitude, thence by a line due west on said latitude, until it strikes the river Iroquois or Cataraguy, has not yet been surveyed ; it is agreed, that for these several purposes two commissioners shall be appointed, sworn and authorized to act exactly in the manner directed with respect to those mentioned in the next

preceding article, unless otherwise specified in the present article. The said commissioners shall meet at St. Andrews, in the province of New Brunswick, and shall have power to adjourn to such other place or places, as they shall think fit. The said commissioners shall have power to ascertain and determine the points abovementioned, in conformity with the provisions of the said treaty of peace of one thousand seven hundred and eighty-three, and shall cause the boundary aforesaid, from the source of the river St. Croix to the river Iroquois, or Cataraguy, to be surveyed and marked, according to the said provisions. The said commissioners shall make a map of the said boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the north-west angle of Nova Scotia, of the north-westernmost head of Connecticut river, and of such other points of the said boundary, as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said boundary. And in the event of the said two commissioners differing, or both, or either of them refusing, declining or wilfully omitting to act, such reports, declarations or statements shall be made by them, or either of them, and such reference to a friendly sovereign or state shall be made, in all respects, as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

ARTICLE THE EIGHTH.

The several boards of two commissioners mentioned in the four preceding articles, shall respectively have power to appoint a secretary, and to employ such surveyors, or other persons, as they shall judge necessary. Duplicates of all

their respective reports, declarations, statements, and decisions, and of their accounts, and of the journal of their proceedings, shall be delivered by them to the agents of his Britannic majesty, and to the agents of the United States, who may be respectively appointed and authorized to manage the business on behalf of their respective governments. The said commissioners shall be respectively paid in such manner as shall be agreed between the two contracting parties, such agreement being to be settled at the time of the exchange of the ratifications of this treaty. And all other expenses attending the said commissioners, shall be defrayed equally by the two parties. And in the case of death, sickness, resignation, or necessary absence, the place of every such commissioner respectively shall be supplied in the same manner as such commissioner was first appointed, and the new commissioner shall take the same oath or affirmation, and do the same duties. It is further agreed between the two contracting parties, that in case any of the islands mentioned in any of the preceding articles which were in the possession of one of the parties prior to the commencement of the present war between the two countries, should, by the decision of any of the boards of commissioners aforesaid, or of the sovereign or state so referred to, as in the four next preceding articles contained, fall within the dominions of the other party, all grants of land made previous to the commencement of the war by the party having had such possession, shall be as valid as if such island or islands had by such decision or decisions been adjudged to be within the dominions of the party having had such possession.

#### ARTICLE THE NINTH.

The United States of America engage to put an end, immediately after the ratification of the present treaty, to

hostilities with all the tribes or nations of Indians, with whom they may be at war at the time of such ratification ; and forthwith to restore to such tribes or nations, respectively, all the possessions, rights, and privileges, which they may have enjoyed or been entitled to in one thousand eight hundred and eleven, previous to such hostilities : *Provided always*, That such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly. And his Britannic majesty engages, on his part, to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom he may be at war at the time of such ratification ; and forthwith to restore to such tribes or nations, respectively, all the possessions, rights, and privileges, which they may have enjoyed or been entitled to in one thousand eight hundred and eleven, previous to such hostilities : *Provided always*, That such tribes or nations shall agree to desist from all hostilities against his Britannic majesty, and his subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

#### ARTICLE THE TENTH.

Whereas the traffic in slaves is irreconcileable with the principles of humanity and justice : And whereas both his majesty and the United States are desirous of continuing their efforts to promote its entire abolition ; it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object.

#### ARTICLE THE ELEVENTH.

This treaty, when the same shall have been ratified on both sides, without alteration by either of the contracting

parties, and the ratifications mutually exchanged, shall be binding on both parties, and the ratifications shall be exchanged at Washington, in the space of four months from this day, or sooner if practicable.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty, and have hereunto affixed our seals.

Done, in triplicate, at Ghent, the twenty-fourth day of December, one thousand eight hundred and fourteen.

|         |                    |
|---------|--------------------|
| (L. S.) | Gambier,           |
| (L. S.) | Heury Goulburn,    |
| (L. S.) | William Adams,     |
| (L. S.) | John Quincy Adams, |
| (L. S.) | J. A. Bayard,      |
| (L. S.) | H. Clay,           |
| (L. S.) | Jona. Russell,     |
| (L. S.) | Albert Gallatin.   |

## CXXI.

### DECISION, WITH DECLARATION, UNDER THE FOURTH ARTICLE OF THE TREATY OF GHENT, BY THE COMMISSIONERS OF THE UNITED STATES AND GREAT BRITAIN.

NOVEMBER 24, 1817.

#### *Sources.*

The commissioners appointed under the fourth article of the treaty of Ghent to determine which of the islands in Passamaquoddy bay should belong respectively to the United States and Great Britain, signed their report at New York, November 24, 1817.

In the archives of the Maine Historical Society are many valuable papers which were used by the commissioners. Those papers which belonged to Thomas Barclay were

presented by his great-grandson, George Lockhart Rives, who has published "Selections from the Correspondence of Thomas Barclay, formerly British Consul at New York" (New York, 1894), a book which throws much light on the work of the commissioners.

The decision, with declaration, is in a "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix II., 36, 37; "American State Papers, Foreign Relations" (Washington, 1834), IV., 171; "British and Foreign State Papers"

London, 1837), V., 199, 200; "Statutes at Large of the United States of America" (Boston, 1846), VIII., 250, 251; John H. Haswell, compiler, "Treaties and Conventions concluded between the United States of America and Other Powers since July 4, 1776" (Washington, 1889), 406; Theodore Lyman, Jr., "The Diplomacy of the United States . . ." (Boston, 1828), second edition, II., 107, 108; and John Bassett Moore, "History and Digest of the International Arbitrations to which the United States has been a Party, together with Appendices . . ." (Washington, 1898), I., 62, 63.

The declaration is printed with the decision because it illustrates the fact that arbitration is usually a compromise.

The text adopted is that of "Statutes at Large."

#### *Text.*

By Thomas Barclay and John Holmes, esquires, commissioners, appointed by virtue of the fourth article of the treaty of peace and amity between his Britannic majesty and the United States of America, concluded at Ghent, on the twenty-fourth day of December, one thousand eight hundred and fourteen, to decide to which of the two contracting parties to the said treaty, the several islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the island of Grand Menan, in the said Bay of Fundy, do respectively belong, in conformity with the true intent of the second article of the treaty of peace of one thousand seven hundred and eighty-three, between his said Britannic majesty and the aforesaid United States of America.

We, the said Thomas Barclay and John Holmes, commissioners as aforesaid, having been duly sworn impartially to examine and decide upon the said claims, according to such evidence as should be laid before us on the part of his Britannic Majesty, and the United States, respectively, have decided, and do decide, that Moose Island, Dudley Island, and Frederick Island in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do, and each of them does, belong to the United States of America; and we have also decided, and do decide, that all the other islands, and each and every of them, in the said Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do belong to his said Britannic majesty, in conformity with the true intent of the said second article of said treaty of one thousand seven hundred and eighty-three.

In faith and testimony whereof, we have set our hands and affixed our seals, at the city of New York, in the state of New York, in the United States of America, this twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventeen.

JOHN HOLMES, (L. s.)  
THOMAS BARCLAY, (L. s.)

*Witness,*

JAMES T. AUSTIN, Agent U. S. A.  
ANTHONY BARCLAY, Secretary.

DECLARATION OF THE COMMISSIONERS UNDER THE  
FOURTH ARTICLE OF THE TREATY  
OF GHENT.

New York, 24<sup>th</sup> November 1817

Sir,

The undersigned commissioners, appointed by virtue of the fourth article of the treaty of Ghent, have attended

to the duties assigned them; and have decided that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do each of them belong to the United States of America, and that all the other islands in the Bay of Passamaquoddy, and the Island of Grand Menan, in the Bay of Fundy, do each of them belong to his Britannic majesty, in conformity with the true intent of the second article of the treaty of peace of one thousand seven hundred and eighty-three. The commissioners have the honor to enclose herewith their decision.

In making this decision, it became necessary that each of the commissioners should yield a part of his individual opinion: several reasons induced them to adopt this measure; one of which was the impression and belief that the navigable waters of the Bay of Passamaquoddy, which, by the treaty of Ghent, is said to be part of the Bay of Fundy, are common to both parties for the purpose of all lawful and direct communication with their own territories and foreign ports.

The undersigned have the honor to be,

With perfect respect, Sir,

Your obedient and humble servants,

J. HOLMES,

THO: BARCLAY.

The Hon. JOHN QUINCY ADAMS,

*Secretary of State.*

## CXXII.

TREATY WITH THE PENOBCSCOT TRIBE OF INDIANS,  
BY THE COMMONWEALTH OF MASSACHUSETTS.

JUNE 29, 1818.

*Sources.*

The relations which Massachusetts established with the Indians were continued under the constitution of the State of Maine in accordance with the Articles of Separation; a place is therefore given to the treaty between the commonwealth of Massachusetts and the Penobscot tribe of Indians, which was signed by both parties, June 29, 1818.

March 20, 1843, it was ordered by the "Council for the Governor of the State of Maine" that "the secretary of state be requested to cause the treaties, bonds and other documents, now on file in the secretary's office, in relation to the Penobscot and Passamaquoddy tribes of Indians, necessary to be preserved as evidence of their title to their lands, and their claims against the state, to be printed with the resolves for the year 1843." In accordance with that order they were printed from the original text and bound with "Acts and Resolves passed by the Twenty-third Legislature of the State of Maine" (Augusta, 1843).

The text adopted is that of "Resolves," 253-255; another text is by Joseph W. Porter, editor, "Bangor Historical Magazine" (Bangor, 1886-87), II., 93-95.

*Text.*

This writing indented and made this twenty ninth day of June, one thousand eight hundred and eighteen, between Edward H. Robbins, Daniel Davis and Mark Langdon Hill, Esqs., commissioners appointed by his excellency John Brooks, governor of the commonwealth of Massachusetts, by and with the advice of council in conformity to a resolve of the legislature of said commonwealth, passed the

thirteenth day of February, A. D. one thousand eight hundred and eighteen, to treat with the Penobscot tribe of Indians upon the subject expressed in said resolve, on the one part; and the said Penobscot tribe of Indians, by the undersigned chiefs, captains and men of said tribe, representing the whole thereof, on the other part, Witnesseth, That the said Penobscot tribe of Indians, in consideration of the payments by them now received of said commissioners, amounting to four hundred dollars, and of the payments hereby secured and engaged to be made to them by said commonwealth, do hereby grant, sell, convey, release and quitclaim, to the commonwealth of Massachusetts, all their, the said tribes, right, title, interest and estate, in and to all the lands they claim, occupy and possess by any means whatever on both sides of the Penobscot river, and the branches thereof, above the tract of thirty miles in length on both sides of said river, which said tribe conveyed and released to said commonwealth by their deed of the eighth of August, one thousand seven hundred and ninety-six, excepting and reserving from this sale and conveyance, for the perpetual use of said tribe of Indians, four townships of land of six miles square each, in the following places, viz:

The first beginning on the east bank of the Penobscot river, opposite the five islands, so called, and running up said river according to its course, and crossing the mouth of the Mattawamkeag river, an extent of six miles from the place of beginning, and extending back from said river six miles, and to be laid out in conformity to a general plan or arrangement which shall be made in the survey of the adjoining townships on the river— one other of said townships lies on the opposite or western shore of said river, and is to begin as nearly opposite to the place of beginning of the first described township as can be, having regard to

the general plan of the townships that may be laid out on the western side of said Penobscot river, and running up said river according to its course, six miles, and extending back from said river six miles. Two other of said townships are to begin at the foot of an island, in west branch of Penobscot river in Nolacemeac lake, and extending on both sides of said lake, bounding on the ninth range of townships, surveyed by Samuel Weston, Esq., which two townships shall contain six miles square each, to be laid out so as to correspond in courses with the townships which now are, or hereafter may be surveyed on the public lands of the state. And the said tribe do also release and discharge said commonwealth from all demands and claims of any kind and description, in consequence of said tribe's indenture and agreement made with said commonwealth, on the eighth day of August, one thousand seven hundred and ninety-six, by their commissioners, William Sheppard, Nathan Dane, and Daniel Davis, Esquires; and we the undersigned commissioners on our part in behalf of said commonwealth, in consideration of the above covenants, and release of the said Penobscot tribe, do covenant with said Penobscot tribe of Indians, that they shall have, enjoy and improve all the four excepted townships described as aforesaid, and all the islands in the Penobscot river above Oldtown and including said Oldtown island. And the commissioners will purchase for their use as aforesaid, two acres of land in the town of Brewer, adjoining Penobscot river, convenient for their occupation, and provide them with a discreet man of good moral character and industrious habits, to instruct them in the arts of husbandry, and assist them in fencing and tilling their grounds, and raising such articles of production as their lands are suited for, and as will be most beneficial for them, and will erect a store on the island of Oldtown, or

contiguous thereto, in which to deposit their yearly supplies, and will now make some necessary repairs on their church, and pay and deliver to said Indians for their absolute use, within ninety days from this date, at said island of Oldtown, the following articles viz: one six pound cannon, one swivel, fifty knives, six brass kettles, two hundred yards of calico, two drums, four fifes, one box pipes, three hundred yards of ribbon, and that annually, and every year, so long as they shall remain a nation, and reside within the commonwealth of Massachusetts, said commonwealth will deliver for the use of said Penobscot tribe of Indians at Oldtown aforesaid, in the month of October, the following articles viz: five hundred bushels of corn, fifteen barrels of wheat flour, seven barrels of clear pork, one hogshead of molasses, and one hundred yards of double breadth broad cloth, to be of red color one year, and blue the next year, and so on alternately, fifty good blankets, one hundred pounds of gunpowder, four hundred pounds of shot, six boxes of chocolate, one hundred and fifty pounds of tobacco, and fifty dollars in silver. The delivery of the articles last aforesaid to commence in October next, and to be divided and distributed at four different times in each year among said tribe, in such manner as that their wants shall be most essentially supplied, and their business most effectually supported. And it is further agreed by and on the part of said tribe, that the said commonwealth shall have a right at all times hereafter to make and keep open all necessary roads, through any lands hereby reserved for the future use of said tribe. And that the citizens of said commonwealth shall have a right to pass and repass any of the rivers, streams, and ponds, which run through any of the lands hereby reserved, for the purpose of transporting their timber and other articles through the same.

In witness whereof, the parties aforesaid have hereunto set our hands and seal.

|  |         |
|--|---------|
| Edw'd H. Robbins.                                  | (Seal.) |
| Dan'l Davis.                                       | (Seal.) |
| Mark Langdon Hill.                                 | (Seal.) |
| John <sup>his</sup> Etien, Governor.<br>mark       | (Seal.) |
| John <sup>his</sup> Neptune, Lt. Governor.<br>mark | (Seal.) |
| Francis <sup>his</sup> Lolon.<br>mark              | (Seal.) |
| Nicholas Neptune.                                  | (Seal.) |
| Sock <sup>his</sup> Joseph, Captain.<br>mark       | (Seal.) |
| John <sup>his</sup> Nicholas, Captain.<br>mark     | (Seal.) |
| Etien <sup>his</sup> Mitchell, Captain.<br>mark    | (Seal.) |
| Piel <sup>his</sup> Marie,<br>mark                 | (Seal.) |
| Piel <sup>his</sup> Periut, Colo.<br>mark          | (Seal.) |
| Piel <sup>his</sup> Tomah.<br>mark                 | (Seal.) |

*Signed, sealed and delivered }  
in presence of us: }*

Lothrop Lewis,  
Jno. Blake,  
Joseph Lee,  
Eben'r Webster,  
Joseph Whipple.

PENOBCOT, ss—June 30th, 1818. Personally appeared the aforesigned Edward H. Robbins, Daniel Davis, and Mark Langdon Hill, Esquires, and John Etien, John Neptune,

Francis Lolon, Nicholas Neptune, Sock Joseph, John Nicholas, Etien Mitchell, Piel Marie, Piel Periut, and Piel Tomah, subscribers to the foregoing instrument, and severally acknowledged the same to be their free act and deed.

BEFORE ME,

WILLIAM D. WILLIAMSON, Justice of the Peace.

PENOBCOT, ss. Received July 1st, 1818, and recorded in book No. 4, page 195, and examined by

JOHN WILKINS, Register.

Copy examined.

A. BRADFORD, Secretary  
of commonwealth of Massachusetts.

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### CXXIII.

#### EXTRACTS FROM THE CONVENTION FOR RIGHTS OF FISHING, BETWEEN THE UNITED STATES AND GREAT BRITAIN.

OCTOBER 20, 1818.

##### *Sources.*

That the convention between the United States and Great Britain, which was concluded at London, October 20, 1818, has a close relation to Maine history is shown both by the text itself and its subsequent use by the arbitration commission which met at Halifax, June 15, 1877.

The convention was printed by H. Niles, "Weekly Register," XV., 434-436; it is also in "American State Papers, Foreign Relations," (Washington, 1834), IV., 406, 407; "Statutes at Large of the United States of America," (Boston, 1846), VIII., 248-250; John H. Haswell, compiler, "Treaties and Conventions concluded between the United States of America and Other Powers since July 4, 1776," (Washington, 1889), 415-418; and, in

both French and German, by George Frédéric de Martens, editor, "Supplement au Recueil des Principaux Traité<sup>s</sup> d' Alliance, . . ." (Gottingue, 1820), VIII., 570-577.

Extracts from the convention are reprinted here from "American State Papers."

*Text.*

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, desirous to cement the good understanding which happily subsists between them, have, for that purpose, named their respective plenipotentiaries, that is to say: the President of the United States, on his part, has appointed Albert Gallatin, their envoy extraordinary and minister plenipotentiary to the court of France and Richard Rush their envoy extraordinary and minister plenipotentiary to the court of His Britannic Majesty: and His Majesty has appointed the right honorable Frederick John Robinson, treasurer of His Majesty's navy, and president of the committee of privy council for trade and plantations; and Henry Goulburn, Esq., one of His Majesty's under secretaries of state: who, after having exchanged their respective full powers, found to be in due and proper form have agreed to and concluded the following articles:

ART. I. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure, fish, on certain coasts, bays, harbours, and creeks, of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea Islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the

Quirpon Islands; on the shores of the Magdalen Islands; and also on the coasts, bays, harbours, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the straits of Belleisle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company: and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours, and creeks, of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles, of any of the coasts, bays, creeks, or harbours, of His Britannic Majesty's dominions in America, not included within the above mentioned limits: *Provided, however,* that the American fishermen shall be admitted to enter such bays or harbors, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

ART. VI. This convention, when the same shall have been duly ratified by the President of the United States, by and with the advice and consent of their Senate, and by His Britannic Majesty and the respective ratifications mutually exchanged, shall be binding and obligatory on the said

United States and on his majesty ; and the ratifications shall be exchanged in six months from this date, or sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have thereunto affixed the seal of their arms. Done at London, this twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen.

(L. S.) ALBERT GALLATIN,

(L. S.) RICHARD RUSH,

(L. S.) FREDERICK JOHN ROBINSON,

(L. S.) HENRY GOULBURN.

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## CXXIV.

### ACT RELATING TO THE SEPARATION OF MAINE FROM MASSACHUSETTS PROPER, BY THE GEN- ERAL COURT OF MASSACHUSETTS.

JUNE 19, 1819.

#### *Sources.*

Although the question of separation from Massachusetts proper had been agitated at intervals by the people of the District of Maine, the matter did not really take definite form until 1816, when, in response to petitions "from sundry towns," an Act of Separation passed both houses of the legislature of Massachusetts and received the sanction of the governor February 10. The act provided for a formal vote on the question in the District of Maine, promising that, if the affirmative votes were in the ratio of five to four, a convention should then form a constitution. The proceedings of the Brunswick convention are related by Henry Leland Chapman for the Pejepscot Historical Society, "Collections," (Brunswick, 1889), I., 1-20. As a result of

the first formal vote the General Court of Massachusetts decided "that the contingency upon which the consent of Massachusetts was to be given for the Separation of the District of Maine has not happened; and that the powers of the Brunswick Convention to take any measures tending to that event have ceased." Three years later another "Act relating to the Separation of Maine from Massachusetts proper and forming the same into a Separate and Independent State" passed both houses and received the approval of the governor, John Brooks, June 19, 1819.

The text of the Act of Separation is printed in "Laws of the Commonwealth of Massachusetts passed at the several sessions of the General Court . . . May, 1818 . . . February, 1822," (Boston, 1822), VIII., 248-260; "Laws of the State of Maine, to which are prefixed the Constitution of the United States, and of the said State" (Brunswick, 1821), 1003-1009; "The Public Laws of the State of Maine, passed by the Legislature at its Session held in January, 1822" (Portland, 1822), 6-25; "The Journal of the Constitutional Convention of the District of Maine, with the Articles of Separation, and Governor Brooks's Proclamation prefixed" (Augusta, 1856), 3-14; Ben: Perley Poore, "The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States" (Washington, 1877), 809, 810; and in "The Revised Statutes of Maine" (Portland, 1884), 35-55.

The text adopted is that of "Laws of the Commonwealth of Massachusetts."

*Text.*

WHEREAS it has been represented to this Legislature, that a majority of the people of the District of Maine are desirous of establishing a Separate and Independent Government within said district; Therefore,

SEC. I. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the consent of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a Separate and Independent State, if the people of the said District shall, in the manner, and by the majority, hereinafter mentioned,

express their consent and agreement thereto, upon the following terms and conditions ; and, provided, the Congress of the United States shall give its consent thereto, before the fourth day of March next : which terms and conditions, are as follows, viz :

*First,* All the lands and buildings belonging to the Commonwealth, within Massachusetts Proper, shall continue to belong to said Commonwealth ; and all the lands belonging to the Commonwealth, within the District of Maine, shall belong, the one half thereof, to the said Commonwealth, and the other half thereof, to the State to be formed within the said District, to be divided as is hereinafter mentioned ; and the lands within the said District, which shall belong to the said Commonwealth, shall be free from taxation, while the title to the said lands remains in the Commonwealth ; and the rights of the Commonwealth to their lands, within said District, and the remedies for the recovery thereof, shall continue the same within the proposed State, and in the Courts thereof as they now are within the said Commonwealth, and in the Courts thereof ; for which purposes, and for the maintenance of its rights, and recovery of its lands, the said Commonwealth shall be entitled to all other proper and legal remedies, and may appear in the Courts of the proposed State, and in the Courts of the United States, holden therein, and prosecute as a party, under the name and style of the Commonwealth of Massachusetts ; and all rights of action for, or entry into lands, and of actions upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this Commonwealth, to be enforced, commuted, released, or otherwise disposed of, in such manner as this Commonwealth may hereafter determine : *Provided, however,* that whatever this Commonwealth may hereafter receive or obtain on account thereof, if any thing,

shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof, to the new State, and two third parts thereof, to this Commonwealth.

*Second.* All the arms which have been received by this Commonwealth from the United States, under the law of Congress, entitled "An act making provision for arming and equipping the whole body of militia of the United States," passed April the twenty-third, one thousand eight hundred and eight, shall, as soon as the said District shall become a Separate State, be divided between the two States, in proportion to the returns of the militia, according to which, the said arms have been received from the United States, as aforesaid.

*Third.* All monies, stock, or other proceeds, hereafter obtained from the United States, on account of the claim of this Commonwealth, for disbursements made, and expenses incurred, for the defence of the State, during the late war with Great Britain, shall be received by this Commonwealth, and when received, shall be divided between the two States, in the proportion of two thirds to this Commonwealth, and one third to the new State.

*Fourth.* All other property, of every description, belonging to the Commonwealth, shall be holden and receivable by the same, as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said Commonwealth; and within two years after the said District shall have become a Separate State, the Commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign portion of the productive property, so held by Commonwealth, as an equivalent and indemnification to said Commonwealth, for all such debts, annuities, or Indian subsidies or claims, which may then remain due, or unsatisfied; and all the surplus of the said property, so holden, as aforesaid, shall be divided

between the said Commonwealth and the said District of Maine, in the proportion of two thirds to the said Commonwealth, and one third to the said District. And if, in the judgment of the said Commissioners, the whole of said property, so held, as a fund and security, shall not be sufficient indemnification, the said District shall be liable for, and shall pay to said Commonwealth, one third of the deficiency.

*Fifth.* The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth, towards the Indians within said District of Maine, whether the same arise from treaties or otherwise; and for this purpose, shall obtain the assent of said Indians, and their release to this Commonwealth of claims and stipulations arising under the treaty at present existing between the said Commonwealth and said Indians; and as an indemnification to such new State, therefor, this Commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State, the value of thirty thousand dollars, in manner following, viz.: The said Commissioners shall set off by metes and bounds, so much of any part of the land, within the said District, falling to this Commonwealth, in the division of the public lands, hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this Commonwealth shall, thereupon, assign the same to the said new State; or in lieu thereof, may pay the sum of thirty thousand dollars, at its election, which election of the said Commonwealth, shall be made within one year from the time that notice of the doings of the Commissioners, on this subject, shall be made known to the Governor and Council; and if not made within that time, the election shall be with the new State.

*Sixth.* Commissioners, with the powers and for the purposes mentioned in this act, shall be appointed in manner following: The Executive authority of each State shall appoint two; and the four so appointed, or the major part of them, shall appoint two more; but if they cannot agree in the appointment, the Executive of each State shall appoint one in addition; not, however, in that case, to be a citizen of its own State. And any vacancy happening with respect to these two Commissioners, shall be supplied in the manner provided for their original appointment; and, in addition to the powers herein before given to said Commissioners, they shall have full power and authority, and it shall be their duty, within ten years, next after the commissions shall be filled up, to divide all the public lands within the District, between the respective States, in equal shares, or moieties, in severalty, having regard to quantity, situation and quality; they shall determine what lands shall be surveyed and divided, from time to time; the expense of which surveys, and of the commission shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction; copies of which records, authenticated by them, shall be deposited in the archives of the respective States; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The Executive authority of each State may revoke the power of either or both its Commissioners; having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own Commissioners; four of said Commissioners shall constitute a quorum, for the transaction of business; their decision shall be final, upon all subjects within their cognizance. In case said commission shall expire, the division not having been completed, and either State shall request the renewal or filling

up of the same, it shall be renewed, or filled up in the same manner as is herein provided for filling the same, in the first instance, and with the like powers; and if either State shall, after six months notice, neglect or refuse to appoint its Commissioners, either for filling the commission in the first instance, or the renewal thereof, the other may fill up the whole commission.

*Seventh.* All grants of lands, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located, which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a Separate State. But the grant which has been made to the President and Trustees of Bowdoin College, out of the tax laid upon the banks, within this Commonwealth, shall be charged upon the tax upon the banks within the said District of Maine, and paid according to the terms of said grant; and the President and Trustees, and the Overseers of said College, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained, except by judicial process, according to the principles of law; and in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of Schools, and of the Ministry, as have heretofore been usual, in grants made by this Commonwealth. And all lands heretofore granted by this Commonwealth, to any religious, literary, or eleemosynary corporation, or society shall be free from taxation, while the same continues to be owned by such corporation, or society.

*Eighth.* No laws shall be passed in the proposed State, with regard to taxes, actions, or remedies at law, or bars,

or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors, not resident in, or not citizens of the proposed State, resident therein; and the rights and liabilities of all persons, shall, after the said separation, continue the same as if the said District was still a part of this Commonwealth, in all suits pending, or judgments remaining unsatisfied, on the fifteenth day of March next, where the suits have been commenced in Massachusetts Proper, and process has been served within the District of Maine; or commenced in the District of Maine, and process has been served in Massachusetts Proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits, the Courts within Massachusetts Proper, and within the proposed State, shall continue to have the same jurisdiction as if the said District still remained a part of the Commonwealth. And this Commonwealth shall have the same remedies, within the proposed State, as it now has, for the collection of all taxes, bonds, or debts, which may be assessed, due, made, or contracted, by, to, or with the Commonwealth, on or before the said fifteenth day of March, within the said District of Maine; and all officers within Massachusetts Proper and the District of Maine, shall conduct themselves accordingly.

*Ninth.* These terms and conditions, as here set forth, when the said District shall become a Separate and Independent State, shall, *ipso facto*, be incorporated into, and become, and be a part of any constitution, provisional, or other, under which the government of the said proposed State shall, at any time hereafter, be administered; subject, however, to be modified, or annulled, by the agreement of the Legislature of both the said States; but by no other power or body whatsoever.

SEC. 2. *Be it further enacted*, That the inhabitants of the several towns, districts, and plantations, in the District of Maine, qualified to vote for Governor or Senators, shall assemble in regular meeting, to be notified by warrants of the proper officers, on the fourth Monday of July next, and shall, in open meeting, give in their votes, on this question: “Is it expedient, that the District of Maine shall become a Separate and Independent State, upon the terms and conditions, provided in an act, entitled An act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a Separate and Independent State?” And the Selectmen of the towns and districts, and the Assessors of the plantations, shall, in open meeting, receive, sort, count and declare, and the Clerks thereof, respectively shall record the votes given for and against the measure; and the said Selectmen, Assessors and Clerks, respectively, shall record the votes given for and against the measure; and the said Selectmen, Assessors, and Clerks, respectively, shall make out an exact return thereof, under their hands, and shall seal up and transmit the same to the office of the Secretary of this Commonwealth, on or before the fourth Monday of August next. And all returns, not then made, shall be rejected in the counting; and the Governor and Council shall open and examine the said returns, made as aforesaid, and shall count the votes given on the said question: And the Governor shall, by public proclamation, to be made as soon as the state of the votes can be ascertained, after the said fourth Monday of August next, make known the result, by declaring the number of votes appearing in favor of the separation of said District, as aforesaid, and the number of votes appearing against it. And, if the number of votes for the measure shall exceed the number of votes against it, by fifteen hundred, then, and not otherwise, the people of said District shall be

deemed to have expressed their consent and agreement, that the said District shall become a Separate and Independent State, upon the terms and conditions above stated ; and in case of such majority, the Governor, in his said proclamation, shall call upon the people of said District to choose Delegates to meet in convention for the purposes, and, in the manner hereinafter provided ; and in addition to publishing said proclamation, in one or more of the public newspapers printed in Boston, and in the District of Maine, copies of the same, duly authenticated, shall, as soon as can conveniently be done, after the making of the same, be transmitted to the office of the Clerks of the Courts of Common Pleas, in the several counties of the District of Maine, for public examination ; and one such copy, at least, shall be transmitted to the Convention of Delegates, hereinafter mentioned, when said Convention shall be formed.

SEC. 3. *Be it further enacted*, That if it shall be declared by said proclamation, that the said majority of fifteen hundred votes appeared by the returns to be in favor of the separation of the said District as aforesaid ; the inhabitants of the several towns and districts, now entitled to send one or more Representatives to the General Court, and all other incorporated towns, shall, on the third Monday of September next, assemble in town meeting, to be notified by warrant of the Selectmen, and shall elect one or more Delegates, (not exceeding the number of Representatives which such town is now entitled to ; each town, however, to be at liberty to elect at least one,) to meet Delegates from other towns within the said District, in Convention, for the purpose of forming a Constitution, or frame of Government, for the said District. And at such meeting of the said inhabitants, every person qualified to vote for Senators, shall have a right to vote in the choice of Delegates. And

the selectmen shall preside, at such meeting, and shall in open meeting, receive, sort, count and declare the votes, and the Clerk shall make a record thereof, in presence of the Selectmen, and in open meeting. And fair copies of the said record shall be attested by the Selectmen and Town Clerk, and one such copy shall be delivered by the Selectmen to each of the persons duly elected a Delegate.

SEC. 4. *Be it further enacted,* That the persons so elected Delegates, shall meet in convention, at the Court House, in Portland, in the County of Cumberland, on the second Monday of October next, and they shall be the judges of the returns and elections of their own members, and may adjourn from time to time, and sixty of the persons elected shall constitute a quorum for the transaction of business; and the said Delegates shall, as soon as may be, proceed to organize themselves, in Convention, by choosing a President, and such other officers as they may judge expedient, and establishing proper rules of proceedings; and it shall be the duty of the said Convention, to apply to the Congress of the United States, for its assent to be given, before the last day of January next, that the said District shall be admitted into the Union, as a Separate and Independent State. And it shall also be the duty of the said Convention, to form a Constitution, or frame of government, for said new State, and to determine the style and title of the same; and such Constitution, when adopted, and ratified by the people of said District, in the manner hereinafter mentioned, shall, from and after the fifteenth day of March, in the year of our Lord, one thousand eight hundred and twenty, (the consent of the Congress of the United States, then being first had as aforesaid,) be the Constitution of said new State. And the said Convention shall, as soon as may be, after having formed such Constitution, or frame of government, for such new State, cause

the same to be published, and sent to the several towns, districts, and plantations, within the said District of Maine; and there shall be a meeting of the inhabitants, in each of said towns, districts, and plantations, to be called and warned by the Selectmen, and Assessors respectively, in due course of law; and on the day named by said Convention, at which meeting, every male inhabitant, having the personal qualifications, herein declared requisite in the election of Delegates to said Convention, shall have a right to vote; and the people so assembled, shall give in their votes in writing, expressing their approbation or disapprobation of the Constitution so prepared, and proposed by said Convention. And the Selectmen of the several towns, and the Assessors of the several districts, and plantations respectively, shall preside at such meetings, and shall receive the votes of all the inhabitants duly qualified as aforesaid, and shall sort and count them in open meeting of the town, district, or plantation; and a fair copy of such record shall be attested by the Selectmen or Assessors, and the Clerk of the town, district, or plantation, respectively, and shall be, by the said Selectmen or Assessors, transmitted and delivered to the said Convention, or to the President thereof, for the time being, or to any Committee appointed to receive the same, on or before the first day of January next; on which day, or within ten days thereafter, the said Convention shall be in session, and shall receive and count all the votes returned, and declare and publish the result; and if a majority of the votes so returned, shall be in favor of the Constitution proposed, as aforesaid, the said Constitution shall go into operation, according to its own provisions; otherwise the constitution of Massachusetts, with the addition of the terms and conditions herein provided, shall be, and be considered as the Constitution of the said proposed state, in case a new Constitution shall not be so adopted.

and ratified by the people of said District of Maine, the present Constitution of the Commonwealth of Massachusetts, shall, with the terms and conditions aforesaid, and with the exceptions hereinafter made, be provisionally, the Constitution or frame of government, for said District; except only such parts of said Constitution of Massachusetts, as relate to the style or title of said State, or may be otherwise inconsistent with, or repugnant to the situation and condition of said new State; and except, that the people of said District shall choose in their Senatorial Districts, as now established, three times the number of Senators now allowed them, and that the Legislature shall choose such a number of Counsellors, not exceeding nine, as they shall determine to be proper. And the said Convention shall designate the place for the first meeting of the Legislature of said new State, and for the organization of its government, and shall appoint a Secretary, pro tempore, for said new State; and the said Convention shall regulate the pay of its members; and the person, authorized by said Convention, may draw upon the treasury of the Commonwealth for the amount of the pay roll, not, however, to exceed the amount of the money paid into the treasury by the several banks within said District, for the tax upon the same, due and payable on the first Monday of October next; and the sum or sums so drawn for, and paid out of the treasury, shall be a charge upon the new State in the division of the property, provided for in the fourth article of the terms and conditions stated in the first section of this act.

SEC. 5. *Be it further enacted*, That until a Governor of the proposed State shall be chosen and qualified according to the Constitution which may be in operation in said State, the person last chosen President of the said Convention, shall, from and after the fifteenth day of March next,

have all the power of the Governor and Council under the Constitution of Massachusetts, until a new Governor shall be chosen and qualified in the said proposed State; excepting only, that the said President shall not have the power to remove from office any officer who may be duly qualified, and executing the duties of his office according to the intent and meaning of this act.

And in order that there may be no failure of justice, and that no danger may arise to the people of the said District of Maine, after the fifteenth day of March next, and before the government of the said State shall be fully organized; therefore,

SEC. 6. *Be it further enacted*, That all the laws which shall be in force within said District of Maine, upon the fifteenth day of March next, shall still remain and be in force, within the said proposed State, until altered or repealed by the government thereof, such part only excepted as may be inconsistent with the situation and condition of said new State, or repugnant to the Constitution thereof. And all officers, who shall, on the said fifteenth day of March next, hold commissions, or exercise any authority within the said District of Maine, under the Commonwealth of Massachusetts, or by virtue of the laws thereof, excepting only, the Governor, Lieutenant Governor and Council, the Members of the Legislature, and the Justices of the Supreme Judicial Court of the said Commonwealth of Massachusetts, shall continue to have, hold, use, exercise and enjoy, all the powers and authority to them respectively granted or committed, until other persons shall be appointed in their stead, or until their respective offices shall be annulled by the government of said proposed State. And all Courts of Law, whatsoever, within the said proposed State, excepting only the Supreme Judicial Court, shall proceed to hear and determine all

causes, matters and things, which are or may be commenced or depending before them, respectively, upon the said fifteenth day of March next, or at any time afterwards, and before the government of the said proposed State shall establish new Courts within the same; and shall continue from and after the said fifteenth day of March next, to exercise the like power and authority, and in like manner as they now by law may do, until such new Courts shall be so established, in their stead.

SEC. 7. *Be it further enacted*, That all actions, suits, and causes, civil and criminal, and all matters and things whatsoever, that shall, on the said fifteenth day of March next, be in any manner depending in the Supreme Judicial Court of the said Commonwealth of Massachusetts, then last holden within any county in the said District of Maine, and all writs, recognizances, and other processes whatsoever, that may be then returnable to the said Supreme Judicial Court, shall be respectively transferred, and returned to, have day in, and be heard, tried and determined in the highest Court of Law that shall be established in the said new State, by the government thereof; and at the first term of such Court, that shall be held within the county in which such action, writ, process, or other matter or thing, may be so pending or returnable. And in all cases of appeals from any Circuit Court of Common Pleas, or Probate, or other Court, which shall be made after the said fifteenth day of March next, in any action, cause, or suit whatsoever, and which would by law be made to the said Supreme Judicial Court thereof, it shall be sufficient for the appellant to claim an appeal, without naming or designating the Court appealed to; and such appeal shall be entered at the Supreme or Superior Judicial Court, or highest Court of Law, to be established by the government of the said new State, which shall first thereafter be held

within or for the county in which such action, cause, or suit may be pending, and shall there be heard, tried, and determined, according to law.

*Provided, however,* That nothing contained in this section shall be understood or construed to control, in any degree, the right of the people of the said new State, or the government thereof, to establish Judicial Courts, in such manner, and with such authority as they shall see fit; nor to prevent the said people or their government from making any other provisions, pursuant to their Constitution, and not repugnant to the terms and conditions above set forth, respecting all the said actions, suits, processes, matters and things, herein above mentioned, as they shall think most proper, to prevent the discontinuance thereof, and to avoid any delay or failure of justice.

[Approved by the Governor, June 19, 1819.]

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## CXXV.

### PROCLAMATION FOR A CONSTITUTIONAL CONVENTION, BY HIS EXCELLENCY, JOHN BROOKS, GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS.

AUGUST 24, 1819.

#### *Sources.*

In accordance with the provisions of the Act of Separation, the inhabitants of Maine qualified to vote for executive officers assembled on the fourth Monday of July, 1819, to cast their votes upon the question submitted by the General Court of the Commonwealth of Massachusetts, “Shall the Legislature be requested to give its consent to the separation of the District of Maine from Massachusetts

and the creation of said district into a separate State?" The necessary majority of fifteen hundred having been secured, Governor Brooks issued a proclamation for a constitutional convention to meet at Portland on the second Monday of October, 1819.

The proclamation was printed by H. Niles, "Weekly Register," XVII, 8, 9; also in "The Journal of the Constitutional Convention of the District of Maine, with the Articles of Separation, and Governor Brooks's Proclamation Prefixed" (Augusta, 1856), 17, 18, which is the text adopted.

*Text.*

WHEREAS by an act of the Legislature of this Commonwealth passed on the nineteenth day of June last, entitled "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State" it is among other things provided, that the inhabitants of the several towns, districts and plantations, in the District of Maine, qualified to vote for Governor or Senators, should assemble in regular meeting to be notified by warrants of the proper officers, on the fourth Monday of July then next, and in open meeting give in their votes on this question,

"Is it expedient that the District of Maine shall become a separate and independent State upon the terms and conditions provided in the act aforesaid?"

*And whereas* provision is made by said act for the return of the votes so given, both for and against the measure, into the office of the Secretary of this Commonwealth, on or before the fourth Monday of August then next and for the opening, examining and counting of said votes by the Governor and Council;

*And whereas* it is further provided in said act, that as soon after the said fourth Monday of August as the state of said votes could be ascertained, the Governor should, by

public proclamation, make known the result by declaring the number of votes appearing in favor of the separation of said District as aforesaid, and the number of votes appearing against it; and in case the number of votes for the measure should exceed the number of votes against it by fifteen hundred, that the Governor should in his said proclamation, call upon the people of said District to choose delegates to meet in convention for the purposes expressed and in the manner prescribed in said Act;

Now, therefore, I, JOHN BROOKS, Governor of the Commonwealth of Massachusetts, do hereby declare and make known, to all whom it may concern, that upon a careful examination in manner aforesaid, of all the votes for and against said measure, duly and legally returned into the Secretary's [Office] conformably to said Act, it appears, that the whole number of votes given in favor of the separation of said District as aforesaid was seventeen thousand and ninety-one, and that the whole number of votes against it was seven thousand one hundred and thirty-two.

And inasmuch as the number of votes for said measure exceeds the number of votes against it by fifteen hundred and upwards, I do hereby, by virtue of the authority given and pursuant to the requisitions contained in said Act, call upon the inhabitants of the several towns and districts now entitled to send one or more representatives to the General Court, and all other incorporated towns in said District of Maine, to assemble in town meeting in their respective towns on the third Monday of September next, to be notified by warrant of the selectmen and elect one or more delegates not exceeding the number of representatives which such town is now entitled to, (each town, however, to be at liberty to elect one,) to meet delegates from other towns within the said District, in convention, at the Court House in Portland, in the County of Cumberland, on the second

Monday of October next, for the purpose of forming a constitution or frame of government for the said District, and for other purposes expressed in said Act.

Given under my hand and the seal of the Commonwealth at Boston, this twenty-fourth day of August A.D. [L. S.] eighteen hundred and nineteen; and in the forty-fourth year of the independence of the United States of America.

JOHN BROOKS.

By His Excellency the Governor:

ALDEN BRADFORD, *Sec'y of the Commonwealth*

Copy. Examined by

ALDEN BRADFORD, *Sec'y of the Commonwealth*

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## CXXVI.

### CONSTITUTION OF THE STATE OF MAINE, ADOPTED BY THE PEOPLE.

JANUARY 5, 1820.

#### *Sources.*

The constitution of the State of Maine, framed by the convention which met at the Court House in Portland, the second Monday in October, was adopted by the people of the District of Maine, January 5, 1820, and approved by the governor of Massachusetts. The record of deliberations is preserved in "The Journal of the Constitutional Convention of the District of Maine," etc. (Augusta, 1856). According to provisions of the Act of Separation, that ordinance was incorporated with the constitution. Among important amendments which have since been made is the substitution of biennial in place of annual elections,

and the prohibition of the manufacture and sale of intoxicating liquors.

The constitution was first published in "Laws of the State of Maine, to which are prefixed the Constitution of the United States, and of the Said State" (Brunswick, 1821), 21-41; and "Laws of the State of Maine passed by the Legislature at its session which commenced on Wednesday, the thirty-first day of May [1820], . . . To which is prefixed the Constitution of the State" (Portland, 1820), pp. VII.-XXXI.; also by H. Niles, "Weekly Register," XIX., 26-36; with amendments. Franklin B. Hough, "American Constitutions: Comprising the Constitutions of each State in the Union and of the United States" (Albany, 1872), I., 509-546; also by Ben: Perley Poore, "The Federal and State Constitutions, Colonial Charters and Other Organic Laws of the United States" (Washington, 1877), 788-809. More recent prints are in "The Revised Statutes of Maine" (Portland, 1884), 33-53; and by G. M. Donham, compiler, in the numbers of the "Maine Register, State Year-Book and Legislative Manual."

The text adopted for this reprint is that of the "Register."

*Text.*

CONSTITUTION OF MAINE.

PREAMBLE.

Objects of government. WE, the people of Maine, in order to establish justice, insure tranquility, provide for our mutual defence, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging with grateful hearts the goodness of the Sovereign Ruler of the Universe in affording us an opportunity, so favorable to the design; and, imploring his aid and direction in its accomplishment, do agree to form ourselves into a free and independent State, by the style and title of the STATE OF MAINE, and do ordain and establish the following Constitution for the government of the same.

## ARTICLE I.

## DECLARATION OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain natural, inherent, and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

SEC. 2. All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

SEC. 3. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no one shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in Proviso. their religious worship; — and all persons demeaning themselves peaceably as good members of the State, shall be equally under the protection of the laws, and no All religious subordination nor preference of any one sect or sects equal. denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust, under this State; Religious tests prohibited. and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

**Freedom of speech and publication.** SEC. 4. Every citizen may freely speak, write, and publish his sentiments on any subject, being responsible for the abuse of this liberty; no laws shall be passed regulating or restraining the freedom of the press; and in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suff-

**Truth may be given in evidence.** frages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the Jury, after having received the direction of the Court, shall have a right to determine, at their discretion, the law and the fact.

**Unreasonable searches.** SEC. 5. The people shall be secure in their persons, houses, papers, and possessions, from all unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause—supported by oath or affirmation.

**Rights of persons accused.** SEC. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election;

To demand the nature and cause of the accusation, and have a copy thereof;

To be confronted by the witnesses against him;

To have compulsory process for obtaining witnesses in his favor;

To have a speedy, public, and impartial trial, and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property, or privileges, but by judgment of his peers, or by the law of the land.

SEC. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger. The Legislature shall provide by law a suitable and impartial mode of selecting juries and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

No persons  
to answer to  
a capital or  
infamous  
crime but on  
indictment.

Exceptions.

Juries.

SEC. 8. No person, for the same offence, shall be twice put in jeopardy of life or limb.

Not to be  
put in jeop-  
ardy twice  
for same  
offence.

Sanguinary  
laws pro-  
hibited.

SEC. 9. Sanguinary laws shall not be passed; all penalties and punishments shall be proportioned to the offence; excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

SEC. 10. No person before conviction shall be bailable for any of the crimes, which now are or have been denominated capital offences since the adoption of the Constitution, where the proof is evident or the presumption great, whatever the punishment of the crimes may be. And the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Bailable  
offences.

Resolve,  
Mar. 30, 1837.

Amend-  
ment,  
Art. II.

Habeas  
corpus.

SEC. 11. The Legislature shall pass no bill of attainder, ex post facto law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

Bills of at-  
tainer, &c.,  
prohibited.

SEC. 12. Treason against this State shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted

Treason.

of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

Suspension of laws. SEC. 13. The laws shall not be suspended but by the Legislature or its authority.

Corporal punishment under military law. SEC. 14. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service in time of war or public danger.

Right of petition. SEC. 15. The people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

—to keep and bear arms. SEC. 16. Every citizen has a right to keep and bear arms for the common defence; and this right shall never be questioned.

Standing armies not to be kept. SEC. 17. No standing army shall be kept up in time of peace without the consent of the Legislature, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

No soldier to be quartered on citizens in time of peace. SEC. 18. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

Right of redress for injuries. SEC. 19. Every person, for an injury done him in his person, reputation, property, or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

Trial by jury. SEC. 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore

been otherwise practiced ; the party claiming the right may be heard by himself and his counsel, or either, at his election.

SEC. 21. Private property shall not be taken for public uses without just compensation ; nor unless the public exigencies require it.

Private property not to be taken without just compensation.

SEC. 22. No tax or duty shall be imposed Taxes. without the consent of the people or of their representatives in the Legislature.

SEC. 23. No title of nobility or hereditary distinction, privilege, honor, or emolument, shall ever be granted or confirmed, nor shall any office be created, the appointment to which shall be for a longer time than during good behavior.

Titles of nobility prohibited.

Tenure of offices limited.

SEC. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

Other rights not impaired.

## ARTICLE II.

### ELECTORS.

SEC. 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for Governor, Senators, and Representatives, in the town or plantation where his residence is so established ; and the elections shall be by written ballot.

Qualification of electors.

Written ballot.

Soldiers or seamen in U. S. service.

But persons in the military, naval, or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack, or military place, in any town or plantation ; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such

Students at colleges and academies.  
Resolve Mar. 24, 1864.

<sup>Amend.</sup>  
<sup>ment, art. x.</sup> seminary is established. No person, however, shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State.

<sup>Electors ex-</sup>  
<sup>empt from</sup>  
<sup>arrest on</sup>  
<sup>days of elec-</sup>

SEC. 2. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.

<sup>—exempt</sup>  
<sup>from mili-</sup>  
<sup>tary duty.</sup>

SEC. 3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

<sup>Time of</sup>  
<sup>election.</sup>

SEC. 4. The election of Governor, Senators, and Representatives shall be on the second Monday of September annually forever. But citizens of the

<sup>Citizens who</sup>  
<sup>may be al-</sup>  
<sup>lowed to vote</sup>  
<sup>for govern-</sup>  
<sup>or, &c.</sup>

States or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to vote on Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and sixty-four, for Governor and Senators, and their votes shall be counted and allowed in the same manner, and with the same effect, as if given on the second Monday of September in that year. And they shall be allowed to vote for Governor, Senators, and Representatives, on the second Monday of September annually thereafter forever, in the manner herein provided.

<sup>Polls, where</sup>  
<sup>shall be</sup>  
<sup>opened.</sup>

<sup>Amend-</sup>  
<sup>ment, art. x.</sup>

<sup>Resolve,</sup>  
<sup>Mar. 24, 1804.</sup>

On the day of election a poll shall be opened at every place without this State where a regiment, battalion, battery, company, or detachment, of not less than twenty soldiers from the State of Maine, may be found or stationed, and every citizen of said State of the age of twenty-one years, in such military service, shall be entitled to vote as aforesaid; and he shall be considered as voting in the city, town, plantation,

and county in this State where he resided when he entered the service. The vote shall be taken by regiments when it can conveniently be done; when not so convenient, any detachment or part of a regiment, not less than twenty in number, and any battery or part thereof numbering twenty or more, shall be entitled to vote wherever they may be. The three ranking officers of such regiment, battalion, battery, company, or part of either, as the case may be, acting as such on the day of election, shall be supervisors of elections. If no officers, then three non-commissioned officers according to their seniority shall be such supervisors. If any officer or non-commissioned officer shall neglect or refuse to act, the next in rank shall take his place. In case there are no officers or non-commissioned officers present, or if they or either of them refuse to act, the electors present, not less than twenty, may choose, by written ballot, enough of their own number, not exceeding three, to fill the vacancies, and the persons so chosen shall be supervisors of elections. All supervisors shall be first sworn to support the Constitution of the United States and of this State, and faithfully and impartially to perform the duties of supervisors of elections. Each is authorized —duties of. to administer the necessary oath to the others; and certificates thereof shall be annexed to the lists of votes by them to be made and returned into the office of the Secretary of State of this State as hereinafter provided. The polls shall be opened and closed at such hours as the supervisors, or a majority of them shall direct; provided however, Proviso. that due notice and sufficient time shall be given for all voters in the regiment, battalion, battery, detachment, company, or part of either, as the case may be, to vote. Regimental and field officers shall be entitled to vote with their respective commands. Certain officers, where may vote.

When not in actual command, such officers, and also all general and staff officers, and all surgeons, assistant surgeons, and chaplains, shall be entitled to vote at any place

where polls are opened. The supervisors of elections shall prepare a ballot box or other suitable receptacle for the ballots. Upon one side of

<sup>Supervisors shall prepare ballot boxes.</sup> every ballot shall be printed or written the name of the county, and also of the city, town, or plantation of

this State, in which is the residence of the person proposing to vote. Upon the other side shall be the name or names of the persons to be voted for, and the office or offices which

<sup>Qualification of voters.</sup> he or they are intended to fill. And before re-

ceiving any vote, the supervisors, or a majority of them, must be satisfied of the age and citizenship of the person claiming to vote, and that he has in fact a residence in the county, city, town, or plantation which is printed or written on the vote offered by him. If his right to vote is challenged, they may require him to make true answers, upon oath, to all interrogatories touching his age, citizenship, residence, and right to vote, and shall hear any other evidence offered by him, or by those who challenge his right.

<sup>Shall keep correct poll-lists.</sup> They shall keep correct poll-lists of the names of all persons allowed to vote, and of their respec-

tive places of residence in this State, and also the number of the regiment and company or battery to which they belong; which lists shall be certified by them, or by a majority of them, to be correct, and that such residence is in accordance with the indorsement of the residence of each

<sup>Shall check names of voters.</sup> voter on his vote. They shall check the name of every person before he is allowed to vote, and the check-mark shall be plainly made against his name on the poll-lists. They shall sort, count and

<sup>—sort, count, and declare votes.</sup> publicly declare the votes at the head of their respective commands on the day of election, unless prevented

by the public enemy, and in that case as soon thereafter as may be; and on the same day of said declaration they shall form a list of the persons voted for, with the number of votes for each person against his name, and the office which he was intended to fill, and shall sign and seal up such list and cause the same, together with the poll-lists —make return to the office of Secretary of State. aforesaid, to be delivered into the office of the Secretary of State aforesaid, on or before the first day of December, in the year one thousand eight hundred and sixty-four, and on or before the fifteenth day of November annually thereafter forever. The Legislature of this State may pass any law additional to the foregoing provisions, if any shall, in practice, be found necessary in order more fully to carry into effect the purpose thereof.

Adopted by  
Resolve Mar.  
24, 1864.

### ARTICLE III.

#### DISTRIBUTION OF POWERS.

SEC. 1. The powers of this government shall be divided into three distinct departments, the Legislative, Executive, and Judicial.

Powers distributed.

SEC. 2. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

To be kept separate.  
See art. ix  
sec. 2.

### ARTICLE IV.—PART FIRST.

#### LEGISLATIVE POWER—HOUSE OF REPRESENTATIVES.

SEC. 1. The legislative power shall be vested in two distinct branches, a House of Representatives, and a Senate, each to have a negative on the other, and both to be styled the Legislature of Maine, and the style of their acts and laws shall be, “*Be*

Legislative department.

Style of acts.

*it enacted by the Senate and House of Representatives in Legislature assembled."*

Number of  
representa-  
tives fixed  
at 151. SEC. 2. The House of Representatives shall consist of one hundred and fifty-one members, to

be elected by the qualified electors, for one year from the day next preceding the annual meeting of the Legislature. The Legislature, which shall first be convened under this Constitution, shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature, within every subsequent period of at most ten years, and at least five, cause the number of the inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and In-

Amend-  
ment, art. iv. Indians not taxed. The number of representatives

Resolve  
April 16, 1841. shall, at the several periods of making such enumera-  
tion, be fixed and apportioned among the

several counties as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of Representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty.

Apportion-  
ment among  
towns. SEC. 3. Each town having fifteen hundred inhabitants may elect one representative; each town having three thousand seven hundred and

fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five; each town having twenty thousand two hundred and fifty may elect six; each town having twenty-six thousand two hundred and fifty may elect seven; but no town shall ever be entitled to more than seven Representatives; and towns and plantations duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into

districts containing that number, and so as not to divide towns; and each such district may elect one representative; and, when on this apportionment the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle; and, in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion; and whenever any town or towns, plantation or plantations not entitled to elect a representative shall determine against a classification with any other town or plantation, the Legislature may, at each apportionment of representatives, on the application of such town or plantation, authorize it to elect a representative for such portion of time and such periods, as shall be equal to its portion of representation; and the right of representation, so established, shall not be altered until the next general apportionment.

SEC. 4. No person shall be a member of the House of Representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty-one years, have been a resident in this State one year, or from the adoption of this Constitution; and for the three months next preceding the time of his election shall have been, and, during the period for which he is elected, shall continue to be a resident in the town or district which he represents.

SEC. 5. The meetings within this State for the choice of representatives shall be warned in due course of law by the selectmen of the several towns seven days at least before the election, and the selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified

Qualifica-  
tions of a  
representa-  
tive.

See amend-  
ment, art. x.

Meetings  
for choice  
of repre-  
sentatives.

See amend-  
ment, art. x.

Resolve  
Mar. 24, 1864.

electors present, sort, count, and declare them in open town meeting, and in the presence of the town clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair

*Meetings  
of classed  
towns.* record thereof in the presence of the selectmen and in open town meeting. And the towns and

plantations organized by law, belonging to any class herein provided, shall hold their meetings at the same time in the respective towns and plantations; and the town and plantation meetings in such towns and plantations shall be notified, held, and regulated, the votes received, sorted, counted, and declared in the same manner. And the assessors and clerks of plantations shall have all the powers, and be subject to all the duties, which selectmen and town clerks have, and are subject to by this Constitution. And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the secretary's

*Lists shall  
be exam-  
ined by  
the gov-  
ernor and  
council.* office thirty days at least before the first Wednesday of January annually. And the governor and council shall examine the returned copies of such lists, and also all lists of votes of citizens in the

military service, returned to the secretary's office, as provided in article second, section four, of this Constitution; and, twenty days before the said first Wednesday

*Governor  
and coun-  
cil shall  
summon  
persons  
who appear  
to be  
elected.* of January annually, shall issue a summons to such persons as shall appear to be elected by a plurality of all the votes returned, to attend and take their seats. But all such lists shall be laid

*Lists to be  
laid before  
the House of  
Repre-  
sentatives.* before the House of Representatives on the first Wednesday of January annually, and they shall finally determine who are elected. The electors

resident in any city may, at any meeting duly notified for the choice of representatives, vote for such representatives in their respective ward meetings, and the wardens in said wards shall preside impartially at such meetings, receive the votes of all qualified electors present, sort, count, and declare them in open ward meetings, and in the presence of the ward clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the warden, and in open ward meetings; and a fair copy of this list shall be attested by the warden and ward clerk, sealed up in open ward meeting, and delivered to the city clerk within twenty-four hours after the close of the polls. And the electors resident in any city may, at any meetings duly notified and holden for the choice of any other civil officers for whom they have been required heretofore to vote in town meeting, vote for such officers in their respective wards, and the same proceedings shall be had by the warden and ward clerk in each ward, as in the case of votes for representatives. And the aldermen of any city shall be in session within twenty-four hours after the close of the polls in such meetings, and in the presence of the city clerk shall open, examine, and compare the copies from the lists of votes given in the several wards, of which the city clerk shall make a record, and return thereof shall be made into the Secretary of State's office in the same manner as selectmen of towns are required to do.

Manner of  
electing  
represen-  
tatives  
and other  
civil offi-  
cers in  
cities.

Amend-  
ment, art. 1.

Resolve,  
Mar. 7, 1834.

Resolve  
Mar. 7, 1834.

See amend-  
ment, art.  
x.; amend-  
ing amend-  
ment, art. 1.

Resolve  
Mar. 24, 1864.

SEC. 6. Whenever the seat of a member shall be vacated by death, resignation, or otherwise, the vacancy may be filled by a new election.

Vacancies  
to be filled.

**House to choose its own officers.** SEC. 7. The House of Representatives shall choose their speaker, clerk, and other officers.

**Power of impeachment.** SEC. 8. The House of Representatives shall have the sole power of impeachment.

#### ARTICLE IV.—PART SECOND.

##### SENATE.

**Senate to consist of not less than 20, nor more than 31.** SEC. 1. The Senate shall consist of not less than twenty, nor more than thirty-one members, elected at the same time, and for the same term, as the representatives, by the qualified electors of the districts into which the State shall from time to time be divided.

**State to be districted once in ten years.** SEC. 2. The Legislature, which shall be first convened under this Constitution, shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature at every subsequent period of ten years, cause the State to be divided into districts for the choice of **Districts, how to be formed.** senators. The districts shall conform, as near as may be, to county lines, and be apportioned according to the number of inhabitants. The number of senators shall not exceed twenty at the first apportionment, and shall at each apportionment be increased, until they shall amount to thirty-one, according to the increase in the House of Representatives.

**Meetings for election of senators.** SEC. 3. The meetings within this State for the election of senators shall be notified, held, and regulated, and the votes received, sorted, counted, declared, and recorded, in the same manner as those for representatives. And fair copies of the list of votes shall be attested by the selectmen and town clerks of towns, and the assessors and clerks of plantations, and sealed up in open town and plantation

**Amend-  
ment, art. x.**

**Resolve  
Mar. 24, 1864.**

meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the secretary's office thirty days at least before the first Wednesday of January. All other qualified electors, living in places unincorporated, who shall be assessed to the support of the government by the assessors of an adjacent town, shall have the privilege of voting for senators, representatives, and governor in such town; and shall be notified by the selectmen thereof for that purpose accordingly.

SEC. 4. The Governor and Council shall, as soon as may be, examine the returned copies of such lists, and also the list of votes of citizens in the military service, returned into the secretary's office, and twenty days before the said first Wednesday of January, issue a summons to such persons, as shall appear to be elected by a plurality of the votes for each district, to attend that day and take their seats.

SEC. 5. The Senate shall, on the said first Wednesday of January, annually, determine who are elected by a plurality of votes to be senators in each district; and in case the full number of senators to be elected from each district shall not have been so elected, the members of the House of Representatives and such senators, as shall have been elected, shall, from the highest numbers of the persons voted for, on said lists, equal to twice the number of senators deficient, in every district, if there be so many voted for, elect by joint ballot the number of senators required; and in this manner all vacancies in the Senate shall be supplied as soon as may be, after such vacancies happen.

SEC. 6. The senators shall be twenty-five years of age at the commencement of the term,

*Electors in  
unincorpo-  
rated places.*

*Votes to be  
examined by  
the governor  
and council.*

*Amend-  
ment, art. x.*

*Resolve  
Mar. 24, 1864.*

*Amended by  
Resolve of  
Feb. 24, 1875.*

*Senate to de-  
cide as to the  
election of  
its members.*

*Amended in  
pursuance of  
Resolve,  
Feb. 24, 1875.*

*Qualifica-  
tions of  
senators.*

for which they are elected, and in all other respects their qualifications shall be the same as those of the representatives.

Senate to try impeach-  
ment. SEC. 7. The Senate shall have the sole power to try all impeachments, and when sitting for that purpose shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Their judgment, however, Limitation of judg-  
ment. shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, trust, or profit under this State. But the party, Party liable to be tried and pun-  
ished. whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

Senate to choose its officers. SEC. 8. The Senate shall choose their president, secretary, and other officers.

#### ARTICLE IV.—PART THIRD.

##### LEGISLATIVE POWER.

Legislature to meet annually — its powers. SEC. 1. The Legislature shall convene on the first Wednesday of January annually, and shall have full power to make and establish all reasonable laws and regulations for the defence and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

Acts to be signed by the governor. SEC. 2. Every bill or resolution having the force of law, to which the concurrence of both

houses may be necessary, except on a question of adjournment, which shall have passed both houses, shall be presented to the governor, and if he approve, he shall sign it; if not, he shall return it with his objections to the house, in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider

it. If after such reconsideration, two-thirds of that house shall agree to pass it, it shall be sent together with the objections, to the other house, by which it shall be reconsidered, and, if approved by two-thirds of that house, it shall have the same effect, as if it had been signed by the governor; but in all such cases, the votes of both houses shall be taken by yeas and nays, and the names of the persons, voting for and against the bill or resolution, shall be entered on the journals of both houses respectively. If the bill or resolution shall not be returned by the governor within five days (Sundays excepted), after it shall have been presented to him, it shall have the same force and effect, as if he had signed it, unless the Legislature, by their adjournment, prevent its return, in which case it shall have such force and effect, unless returned within three days after their next meeting.

SEC. 3. Each house shall be the judge of the elections and qualifications of its own members, and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties as each house shall provide.

SEC. 4. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 5. Each house shall keep a journal, and from time to time publish its proceedings, except such parts as in their judgment may require secrecy; and the yeas and nays of the members of either house on any question, shall, at the

Proceedings  
in case he  
disapprove.

Bills to be  
returned by  
him in five  
days.

Each house  
to judge of  
election.  
Majority a  
quorum.

May punish  
and expel  
members.

To keep a  
journal.

Yea's & Nays.

desire of one-fifth of those present, be entered on the journals.

~~May punish  
for con-  
tempt.~~ SEC. 6. Each house, during its session, may punish by imprisonment any person, not a member, for disrespectful or disorderly behavior in its presence, for obstructing any of its proceedings, threatening, assaulting, or abusing any of its members for anything said, done, Proviso. or doing in either house; provided, that no imprisonment shall extend beyond the period of the same session.

~~Compensa-  
tion of mem-  
bers.~~ SEC. 7. The senators and representatives shall receive such compensation, as shall be established by law; but no law increasing their compensation shall take effect during the existence of the Legislature which enacted it. Travelling expenses. The expenses of the House of Representatives in travelling to the Legislature and returning therefrom, once in each session and no more, shall be paid by the State out of the public treasury to every member, who shall seasonably attend, in the judgment of the house, and does not depart therefrom without leave.

~~Members ex-  
empt from  
arrest.~~ SEC. 8. The senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the Legislature; and no member shall be liable Freedom of debate. to answer for anything spoken in debate in either house, in any court or place elsewhere.

~~Either house  
may origi-  
nate bills.~~ SEC. 9. Bills, orders, or resolutions, may originate in either house, and may be altered, amended, or rejected in the other; but all bills Revenue bills. for raising a revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other cases; provided, that they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

**SEC. 10.** No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which increased during such term, except such offices as may be filled by elections by the people, provided, that this prohibition shall not extend to the members of the first Legislature.

Members not  
to be ap-  
pointed to  
certain of-  
fices.

Proviso.

**SEC. 11.** No member of Congress, nor person holding any office under the United States (post-officers excepted), nor office of profit under this State, justices of the peace, notaries public, coroners, and officers of the militia excepted, shall have a seat in either house during his being such member of Congress, or his continuing in such office.

Persons dis-  
qualified to  
be members.

**SEC. 12.** Neither house shall, during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the house shall be sitting.

Adjourn-  
ments.

**SEC. 13.** The Legislature shall, from time to time, provide, as far as practicable, by general laws, for all matters usually appertaining to special or private legislation.

Special leg-  
islation.  
Resolve of  
Feb. 24, 1875.

**SEC. 14.** Corporations shall be formed under general laws, and shall not be created by special acts of the Legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained; and, however formed, they shall forever be subject to the general laws of the State.

Corpora-  
tions except  
for munici-  
pal pur-  
poses, to be  
formed un-  
der general  
laws, &c.  
Resolve of  
Feb. 24, 1875.

**SEC. 15.** The Legislature shall, by a two-thirds concurrent vote of both branches, have the power to call constitutional conventions, for the purpose of amending this constitution.

Constitu-  
tional con-  
ventions.  
Resolve of  
Feb. 24, 1875.  
See art. x.,  
sec. 2.

## ARTICLE V. — PART FIRST.

## EXECUTIVE POWERS.

**Governor.** SEC. 1. The supreme executive power in this State shall be vested in a Governor.

**—elected for one year.** SEC. 2. The Governor shall be elected by the qualified electors, and shall hold his office one year from the first Wednesday of January in each year.

**Meetings for choice of governor.** SEC. 3. The meetings for election of Governor shall be notified, held, and regulated, and votes shall be received, sorted, counted, declared, and recorded, in the same manner as those for senators and

**Votes to be returned to Secretary of State.** representatives. They shall be sealed and returned into the Secretary's office in the same manner, and at the same time as those for senators. And the Secretary of State for the time being shall, on the first Wednesday of January, then next, lay the lists before the Senate and House of Representatives, and also the lists of votes of citizens in the military service returned into the Secretary's office, to be by them examined, and, in case of a choice by a majority

**Amendment, art. x.** of all the votes returned, they shall declare and publish the same. But if no person shall have a

**Resolve, Mar. 24, 1864.** majority of votes, the House of Representatives shall, by ballot, from the persons having the four highest numbers of votes on the lists, if so many there be, elect two persons and make return of their names to the Senate, of whom the Senate shall, by ballot, elect one, who shall be declared the Governor.

**Provisions in case there is no choice.** SEC. 4. The Governor shall, at the commencement of his term, be not less than thirty years of age; a natural born citizen of the United States, have been five years, or from the adoption of this Constitution, a resident of the State; and at the time of his election and during the term for which he is elected, be a resident of said State.

**SEC. 5.** No person holding any office or place under the United States, this State, or any other power, shall exercise the office of Governor.

Disqualifications.

**SEC. 6.** The Governor shall at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

Compensation.

**SEC. 7.** He shall be commander-in-chief of the army and navy of the State and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State, without their consent or that of the Legislature, unless it shall become necessary, in order to march or transport them from one part of the State to another for the defence thereof.

Commander-in-chief of the militia.

Not to march the militia out of the State.

**SEC. 8.** He shall nominate, and, with the advice and consent of the council, appoint all judicial officers, coroners, and notaries public; and he shall also nominate, and with the advice and consent of the council, appoint all other civil and military officers, whose appointment is not by this Constitution, or shall not by law be otherwise provided for; and every such nomination shall be made seven days, at least, prior to such appointment.

With advice of the council to appoint officers.

Amendment, art. ix. Resolve of Mar. 17, 1855.

Resolve of Feb. 24, 1875.

**SEC. 9.** He shall from time to time give the Legislature information of the condition of the State, and recommend to their consideration such measures as he may judge expedient.

To give information and recommend measures.

**SEC. 10.** He may require information from any military officer or any officer in the executive department, upon any subject relating to the duties of their respective offices.

May require information of any officer.

<sup>Power of  
governor to  
pardon and  
remit penal-  
ties, &c.</sup> SEC. 11. He shall have power, with the advice and consent of the council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves, commutations, and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations, as may be deemed proper, subject to such regulations as may be provided by <sup>Resolve of  
Feb. 24, 1875.</sup> law, relative to the manner of applying for pardons. And he shall communicate to the Legislature at each session thereof, each case of reprieve, remission of penalty, commutation, or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation, or pardon, and the conditions, if any, upon which the same was granted.

<sup>To enforce  
the laws.</sup> SEC. 12. He shall take care that the laws be faithfully executed.

<sup>To convene  
the legisla-  
ture on ex-  
traordinary  
occasions  
and adjourn  
it in case of  
disagree-  
ment.</sup> SEC. 13. He may, on extraordinary occasions, convene the Legislature; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next annual meeting; and if, since <sup>May change  
the place of  
meeting.</sup> the last adjournment, the place where the Legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the State.

<sup>Vacancy,  
how sup-  
plied.</sup> SEC. 14. Whenever the office of Governor shall become vacant by death, resignation, removal from office or otherwise, the president of the Senate shall exercise the office of Governor until another Governor shall be duly qualified; and in case of the death, resignation, removal from office or disqualification of the president of

the Senate so exercising the office of Governor, the speaker of the House of Representatives shall exercise the office, until a president of the Senate shall have been chosen; and when the office of Governor, president of the Senate, and speaker of the House shall become vacant, in the recess of the Senate, the person acting as Secretary of State for the time being, shall by proclamation convene the Senate, that a president may be chosen to exercise the office of Governor. And whenever either the president of the Senate or speaker of the House shall so exercise said office, he shall receive only the compensation of Governor, but his duties as president or speaker shall be suspended; and the Senate or House shall fill the vacancy until his duties as Governor shall cease.

## ARTICLE V.—PART SECOND.

### COUNCIL.

SEC. 1. There shall be a Council, to consist of seven persons, citizens of the United States, and residents of this State, to advise the Governor in the executive part of government, whom the Governor shall have full power, at his discretion to assemble; and he with the Councillors, or a majority of them, may from time to time, hold and keep a council, for ordering and directing the affairs of State, according to law.

Council to consist of seven.

SEC. 2. The Councillors shall be chosen annually, on the first Wednesday of January, by joint ballot of the senators and representatives in convention; and vacancies, which shall afterwards happen, shall be filled in the same manner; but not more than one Councillor shall be elected from any district, prescribed for the election of senators; and they shall be privileged from arrest in the same manner as senators and representatives.

Council, now chosen.

—privileged from arrest.

*Journal to  
be kept of  
their pro-  
ceedings.*

SEC. 3. The resolutions and advice of Council, shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either house of the Legislature; and any Councillor may enter his dissent to the resolution of the majority.

*Persons dis-  
qualified to  
be council-  
lors.*

SEC. 4. No member of Congress, or of the Legislature of this State, nor any person holding any office under the United States (post-officers excepted), nor any civil officers under this State (justices of the peace and notaries public excepted), shall be Councillors. And no Councillor shall be appointed to any office. Not to be ap- any office during the time for which he shall have pointed to been elected.

## ARTICLE V. — PART THIRD.

### SECRETARY.

*Secretary,  
how chosen.* SEC. 1. The Secretary of State shall be chosen annually at the first session of the Legislature, by joint ballot of the senators and representatives in convention.

*—to keep the  
records of  
the State.  
—may ap-  
point depu-  
ties.* SEC. 2. The records of the State shall be kept in the office of the Secretary, who may appoint his deputies, for whose conduct he shall be accountable.

*To attend the  
governor  
and council.* SEC. 3. He shall attend the Governor and Council, Senate, and House of Representatives, in person or by his deputies, as they shall respectively require.

*To preserve  
the records  
of the execu-  
tive and leg-  
islative de-  
partments.* SEC. 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the Governor and Council, Senate, and House of Representatives, and, when required, lay the

same before either branch of the Legislature, and perform such other duties as are enjoined by this Constitution, or shall be required by law.

## ARTICLE V. — PART FOURTH.

### TREASURER.

SEC. 1. The Treasurer shall be chosen annually, at the first session of the Legislature, by joint ballot of the senators and representatives in convention, but shall not be eligible more than five years successively.

Treasurer,  
how chosen;  
eligible for  
five years  
successively  
only.

SEC. 2. The Treasurer shall, before entering on the duties of his office, give bond to the State, with sureties, to the satisfaction of the Legislature, for the faithful discharge of his trust.

To give  
bonds.

SEC. 3. The Treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

Not to en-  
gage in  
trade.

SEC. 4. No money shall be drawn from the treasury, but by warrant from the Governor and Council, and in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published at the commencement of the annual session of the Legislature.

No money to  
be drawn but  
by warrant.

Accounts of  
receipts and  
expendi-  
tures to be  
published.

## ARTICLE VI.

### JUDICIAL POWER.

SEC. 1. The judicial power of this State shall be vested in a Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish.

Supreme  
and other  
courts.

Compensa-  
tion of jus-  
tices of S. J. SEC. 2. The justices of the Supreme Judicial Court shall, at stated times receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward.

To give their opinion when re-  
quired by either branch of the govern-  
ment. SEC. 3. They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Council, Senate, or House of Representatives.

Tenure of judicial offices. SEC. 4. All judicial officers now in office or who may be hereafter appointed shall, from and after the first day of March in the year eighteen hundred and forty, hold their offices for the term of seven years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the Legislature to the Executive), and no longer unless reappointed thereto.

Amend-  
ment, art.  
III. Resolve of  
Mar. 14, 1839. SEC. 5. Justices of the peace and notaries public shall hold their offices during seven years, if they so long behave themselves well, at the expiration of which term, they may be reappointed or others appointed, as the public interest may require.

Justices of the supreme judicial court to hold no other office. SEC. 6. The justices of the Supreme Judicial Court shall hold no office under the United States, nor any State, nor any other office under this State, except that of justice of the peace.

Judges and registers of probate, elected and tenure of office. SEC. 7. Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in at the annual election, on the second Monday of September, and shall hold their offices for four years commencing on the first day of January next after their election. Vacancies occurring in said offices by death,

resignation, or otherwise, shall be filled by election in manner aforesaid, at the September election next after their occurrence ; and in the meantime, the Governor, with the advice and consent of the Council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January thereafter.

Vacancies,  
how filled.Amend-  
ment, art.  
IX.  
Resolve of  
Mar. 17, 1855.

SEC. 8. Judges of municipal and police courts shall be appointed by the executive power, in the same manner as other judicial officers, and shall hold their offices for the term of four years ; provided, however, that the present incumbents shall hold their offices for the term for which they are elected.

Judges of  
municipal  
and police  
courts, ap-  
pointment  
of.Resolve of  
Feb. 24, 1876.

## ARTICLE VII.

### MILITARY.

SEC. 1. The captains and subalterns of the militia shall be elected by the written votes of the members of their respective companies. The field officers of regiments by the written votes of the captains and subalterns of their respective regiments. The brigadier generals in like manner, by the field officers of their respective brigades.

Officers, by  
whom elec-  
ted.

SEC. 2. The Legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making returns to the Governor of the officers elected ; and, if the electors shall neglect or refuse to make such elections, after being duly notified according to law, the Governor shall appoint suitable persons to fill such offices.

Manner of  
conduct-  
ing elec-  
tions.

SEC. 3. The major generals shall be elected by the Senate and House of Representatives, each having a negative on the other. The

Major gen-  
erals and  
adjutant  
generals,  
how elec-  
ted.

adjutant general and quartermaster general shall be chosen annually by joint ballot of the senators and representatives in convention. But the adjutant general shall perform the duties of quartermaster general, until otherwise directed by law. The major generals and brigadier generals, <sup>Staff officers, how appointed.</sup> and the commanding officers of regiments and battalions, shall appoint their respective staff officers; and all military officers shall be commissioned by the Governor.

<sup>Organization of the militia.</sup> SEC. 4. The militia, as divided into divisions, brigades, regiments, battalions, and companies pursuant to the laws now in force, shall remain so organized, until the same shall be altered by the Legislature.

<sup>Who may be exempted from military duty.</sup> SEC. 5. Persons of the denominations of quakers and shakers, justices of the Supreme Judicial Court, and ministers of the gospel, may be exempted from military duty; but no other person of the age of eighteen and under the age of forty-five years, excepting officers of the militia who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent to be fixed by law.

## ARTICLE VIII.

### LITERATURE.

<sup>Legislature to require towns to support public schools.</sup> A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the Legislature are authorized, and it shall be their duty, to require the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the <sup>Shall endow colleges and academies.</sup> circumstances of the people may authorize, all academies, colleges, and seminaries of learning <sup>Proviso.</sup>

within the State; provided, that no donation, grant, or endowment shall at any time be made by the Legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit, or restrain any of the powers, vested in any such literary institution, as shall be judged necessary to promote the best interests thereof.

## ARTICLE IX.

### GENERAL PROVISIONS.

SEC. 1. Every person elected or appointed to either of the places or offices provided in this Constitution, and every person elected, appointed, or commissioned to any judicial, executive, military, or other office under this State, shall, before he enter on the discharge of the duties of his place or office, take and subscribe the following oath or affirmation: "I — do swear, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen thereof. So help me God."

"I — do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as — according to the Constitution and laws of the State. So help me God." Provided that an affirmation in the above forms may be substituted, when the person shall be conscientiously scrupulous of taking and subscribing an oath.

The oaths and affirmations shall be taken and subscribed by the Governor and Councillors before the presiding officer of the Senate, in the presence of both houses of the Legislature, and by the senators and representatives before the Governor and Council, and by

the residue of said officers, before such persons as shall be prescribed by the Legislature; and whenever the Governor or any Councillor shall not be able to attend during the session of the Legislature to take and subscribe said oaths or affirmations, said oaths or affirmations may be taken and subscribed in the recess of the Legislature before any jus-

*Proviso.* justice of the Supreme Judicial Court; provided,

that the senators and representatives, first elected under this Constitution, shall take and subscribe such oaths or affirmations before the president of the convention.

SEC. 2. No person holding the office of justice of the Supreme Judicial Court, or of any inferior court, attorney general, county attorney,

*Offices that  
are incom-  
patible with  
each other.* treasurer of the State, adjutant general, judge of probate, register of probate, register of deeds, sheriffs, or their deputies, clerks of the judicial courts, shall be a member of the Legislature; and any person holding either of the foregoing offices, elected to, and accepting a seat in the Congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising at the same time within this State, more than one of the offices before mentioned.

SEC. 3. All commissions shall be in the name of the State, signed by the Governor, attested by the secretary or his deputy, and have the seal of the State thereto affixed.

*Elections on  
the first  
Wednesday  
of January  
may be ad-  
journed from  
day to day.* SEC. 4. And in case the elections required by this Constitution on the first Wednesday of January annually, by the two houses of the Legislature, shall not be completed on that day, the same may be adjourned from day to day, until completed, in the following order: the vacancies in the Senate shall first be filled; the Governor shall then be elected, if there be no

choice by the people; and afterwards the two houses shall elect the council.

SEC. 5. Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the Governor, with the advice of the Council, on the address of both branches of the Legislature. But before such address shall pass either house, the causes of removal shall be stated, and entered on the journal of the house in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence.

Every civil officer may be removed by impeachment or address.

SEC. 6. The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the Governor and Council.

Tenure of office.

SEC. 7. While the public expenses shall be valuation, assessed on polls and estates, a general valuation shall be taken at least once in ten years.

SEC. 8. All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

Real and personal estate to be taxed according to its value. Resolve of Feb. 24, 1875.

SEC. 9. The Legislature shall never, in any manner, suspend or surrender the power of taxation.

Resolve of Feb. 24, 1875. Taxation.

SEC. 10. Sheriffs shall be elected by the people of their respective counties, by a plurality of the votes given in on the second Monday of September, and shall hold their offices for two years, from the first day of January next after their election. Vacancies shall be filled in the same manner as is provided in the case of judges and registers of probate.

Sheriffs, how elected, and tenure of office.

Amendment, art. ix. Resolve of Mar. 17, 1855.

**Attorney general, how elected.**  
**Vacancy, how filled.**  
**Amendment, art. ix.**  
**Resolve of March 17, 1855, and Feb. 24, 1875.**

**Citizens who may be allowed to vote for county officers**

**Amendment, art. x.**  
**Resolve of Mar. 24, 1864.**

SEC. 11. The attorney general shall be chosen annually by joint ballot of the senators and representatives in the convention. Vacancy in said office, occurring when the Legislature is not in session, may be filled by the appointment of the Governor with the advice and consent of the Council.

SEC. 12. But citizens of this State absent therefrom in the military service of the United States or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to vote for judges and registers of probate, sheriffs, and all other county officers on the Tuesday next after the first Monday in November, in the year one thousand eight hundred and sixty-four, and their votes shall be counted and allowed in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for all such officers on the second Monday in September annually thereafter forever. And the votes shall be given at the same time and in the same manner, and the names of the several candidates shall be printed or written on the same ballots with those for Governor, senators, and representatives, as provided in section four, article second of this Constitution.

**Bribery at elections.**  
**Resolve of Feb. 24, 1875.**

SEC. 13. The Legislature may enact laws excluding from the right of suffrage, for a term not exceeding ten years, all persons convicted of bribery at any election, or of voting at any election, under the influence of a bribe.

**Credit of State not to be loaned.**

SEC. 14. The credit of the State shall not be directly or indirectly loaned in any case. The Legislature shall not create any debt or debts,

liability or liabilities, on behalf of the State, which shall singly, or in the aggregate, with previous debts and liabilities hereafter incurred at any one time, exceed three hundred thousand dollars, except to suppress insurrection, to repel invasion, or for purposes of war; but this amendment shall not be construed to refer to any money that has been, or may be deposited with this State by the government of the United States, or to any fund which the State shall hold in trust for any Indian tribe.

Creation of state debt limited.

Amendment, art. vi.  
Resolve of July 26, 1847.  
Exceptions.

SEC. 15. The State is authorized to issue bonds payable within twenty-one years, at a rate of interest not exceeding six per cent. a year, payable semi-annually, which bonds or their proceeds shall be devoted solely towards the reimbursement of the expenditures incurred by the cities, towns, and plantations of the State for war purposes during the rebellion, upon the following basis: Each city, town, and plantation shall receive from the State one hundred dollars for every man furnished for the military service of the United States under and after the call of July second, eighteen hundred and sixty-two, and accepted by the United States towards its quota for the term of three years, and in the same proportion for every man so furnished and accepted for any shorter period; and the same shall be in full payment for any claim upon the State on account of its war debts by any such municipality. A commission appointed by the Governor and Council shall determine the amount to which each city, town, and plantation is entitled; to be devoted to such reimbursement, the surplus, if any, to be appropriated to the soldiers who enlisted or were drafted and went at any time during the war, or if deceased,

State to issue bonds in payment of municipal war debt.

Amendment, art. xi.  
Resolve of Mar. 7, 1868.

Basis of payment.

Commission to be appointed to determine amount due cities, &c.

~~\$3,500,000 limit of loan.~~ to their legal representatives. The issue of the bonds hereby authorized shall not exceed in aggregate three million five hundred thousand dollars, and this amendment shall not be construed to permit the credit of the State to be directly or indirectly loaned in any other case or for any other purpose.

Towns having 4,000 inhabitants, and towns including islands, may be formed into voting districts.  
Amendment, art. xii.  
Resolve of Mar. 15, 1869.

SEC. 16. The Legislature may by law authorize the dividing of towns having not less than four thousand inhabitants, or having voters residing on any island within the limits thereof, into voting districts for the election of representatives to the Legislature, and prescribe the manner in which the votes shall be received, counted, and the result of the election declared.

## ARTICLE X.

### SCHEDULE.

Laws now in force continue until repealed.

SEC. 1. All laws now in force in this State, and not repugnant to this Constitution, shall remain, and be in force, until altered or repealed by the Legislature, or shall expire by their own limitation.

Constitution, how to be amended. See art. iv, part 3d, sec. 15.

SEC. 2. The Legislature, whenever two-thirds of both houses shall deem it necessary, may propose amendments to this Constitution; and when any amendments shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question, whether such amendment shall be made; and if it shall appear that

a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution.

SEC. 3. After the amendments proposed here-with shall have been submitted to popular vote, the chief justice of the Supreme Judieial Court shall arrange the Constitution, as amended, under appropriate titles, and in proper articles, parts, and sections, omitting all sections, clauses, and words not in force, and making no other changes in the provisions or language thereof, and shall submit the same to the Legislature at its next session. And the draft, and arrangement, when approved by the Legislature, shall be enrolled on parchment and deposited in the office of the Secretary of State; and printed copies thereof shall be prefixed to the books containing the laws of the State. And the Constitution with the amendments made thereto, in accordance with the provision thereof, shall be the supreme law of the State.

SEC. 4. Sections one, two, and five, of article ten of the existing Constitution, shall hereafter be omitted in any printed copies thereof prefixed to the laws of the State; but this shall not impair the validity of acts under those sections; and section five shall remain in full force, as part of the Constitution, according to the stipulations of said section, with the same effect as if contained in said printed copies.

Constitution  
shall be ar-  
ranged by  
chief justice  
of S. J. C.

Resolve of  
Feb. 24, 1875.

—shall be  
submitted to  
the legisla-  
ture.

Constitution  
shall be en-  
rolled on  
parchment  
and printed  
copies bound  
with laws.

— shall be  
the supreme  
law of the  
State.

Secs. 1, 2, 5,  
art. x.,  
omitted.

Sec. 5 shall  
remain in  
force.  
Resolve of  
Feb. 24, 1875.

Municipal  
indebt-  
ness,  
amendment  
of constitu-  
tion relat-  
ing to.

### \* AMENDMENT 1.

#### RELATING TO MUNICIPAL INDEBTEDNESS.

No city or town shall hereafter create any debt or liability, which singly, or in the aggregate with previous debts or liabilities, shall exceed five per centum of the last regular valuation of said city or town; *provided, however,* that the adoption of this article shall not be construed as applying to any fund received in trust by said city or town, nor to any loan for the purpose of renewing existing loans or for war, or to temporary loans to be paid out of money raised by taxation, during the year in which they are made.

### † AMENDMENT 2.

#### BIENNIAL ELECTIONS AND BIENNIAL SESSIONS.

*Biennial elections and sessions.* The governor, senators and representatives in the legislature shall be elected biennially, and hold office two years from the first Wednesday in January next succeeding their election; and the legislature, at the first session next after the adoption of this article, shall make all needful provisions by law concerning the tenure of office of all county officers, and concerning the annual or biennial reports of the state treasurer and other *Provisions to be made.* state officers and institutions; and shall make all such provisions by law as may be required in consequence of the change from annual to biennial elections, and from annual to biennial sessions of the legislature. The first election under this article shall be in the year one thousand eight hundred and eighty; and the first meeting of the legislature under this article shall be on the first Wednesday of January, eighteen hundred and eighty-one.

\* Adopted Sept. 10, 1877,

† Adopted Sept. 8, 1879.

Section four, article two ; section five, part one, article four ; section four, part two, article four ; section one, part three, article four ; section thirteen, part one, article five ; section two, part two, article five ; section one, part three, article five ; section one, part four, article five ; section four, part four, article five ; section three, article seven ; section four, article nine, and section eleven, article nine, are amended, by substituting the word ‘biennial’ for the word “annual” wherever it occurs.

Section two, part one, article five, is amended, by striking out all after the word “office” and substituting therefor the following words, ‘for two years from the first Wednesday of January next following the election.’ Section seven, article six, and section two, article ten, are hereby amended by striking out the word “annual” and insert in place thereof the word ‘biennial.’

#### \* AMENDMENT 3.

##### PROVIDING FOR ELECTION OF GOVERNOR BY PLURALITY VOTE.

The third section of the first part of article five, is amended by striking out the word “majority” wherever it occurs therein, and inserting in the place thereof the word ‘plurality.’

#### † AMENDMENT 4.

##### CHANGING THE TERM OF OFFICE, OF SENATORS AND REPRESENTATIVES.

Section two, article four, part first of the constitution of this state, as amended under the “resolutions concerning an amendment of the constitution of Maine,” approved the fourth day of March,

\* Adopted Sept. 13, 1880.

† Adopted Sept. 13, 1880.

“Biennial”  
substituted  
for “annual.”

Sec. 2, part 1,  
article 5,  
amended.

Sec. 3, part 1,  
article 5,  
amended.

Sec. 2, part 1,  
article 4, and  
Amendment  
2 amended.

in the year eighteen hundred and seventy-nine, shall be further amended by striking out the words "first Wednesday in January next succeeding their election," and inserting in place thereof the words 'day next preceding the biennial meeting of the legislature, and the amendment herein proposed, shall determine the term of office of senators and representatives to be elected at the annual meeting in September, in the year eighteen hundred and eighty, as well as the term of senators and representatives thereafter to be elected,' so that said section as amended shall read as follows:

'SEC. 2. The house of representatives shall consist of one hundred and fifty-one members, to be elected by the qualified electors, and hold their office two years from the day next preceding the biennial meeting of the legislature, and the amendment herein proposed, if adopted, shall determine the term of office of senators and representatives to be elected at the annual meeting in September, in the year eighteen hundred and eighty, as well as the term of senators and representatives thereafter to be elected. The legislature, which shall first be convened under this constitution, shall on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the legislature, within every subsequent period of at most ten years, and at least five, cause the number of the inhabitants of the state to be ascertained, exclusive of foreigners not naturalized and Indians not taxed. The number of representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of representatives shall, on said first apportion, be not less than one hundred and not more than one hundred and fifty.'

## \* AMENDMENT 5.

FOREVER PROHIBITING THE MANUFACTURE OF INTOXICATING LIQUORS, AND PROHIBITING THEIR SALE EXCEPT FOR MEDICINAL AND MECHANICAL PURPOSES AND THE ARTS.

The manufacture of intoxicating liquors, not including cider, and the sale and keeping for sale of intoxicating liquors, are and shall be forever prohibited. Except, however, that the sale and keeping for sale of such liquors for medicinal and mechanical purposes and the arts, and the sale and keeping for sale of cider may be permitted under such regulations as the legislature may provide. The legislature shall enact laws with suitable penalties for the suppression of the manufacture, sale and keeping for sale of intoxicating liquors, with the exceptions herein specified.

Resolved, That the aldermen of cities, selectmen of towns, and assessors of plantations, in the State are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations, in the manner prescribed by law, at the September election next ensuing after the passage and approval of these resolves, to give in their votes on the question whether the amendment to the constitution proposed in the foregoing resolve shall be made; and the question so submitted shall be: "Shall the constitution be amended so as to prohibit forever the manufacture, sale and keeping for sale of intoxicating liquors as provided by the said amendment?" And the inhabitants of said cities, towns and plantations, shall vote by ballot on said question,— those in favor of the amendment expressing it by the word 'yes' upon their ballots, and those opposed to

\* Resolution adopted by legislature, Feb. 21, 1883. Adopted Sept. 8, 1884.

the amendment by the word 'no' upon their ballots; and the ballots shall be received, sorted, counted, declared and recorded in open ward, town and plantation meeting, and lists of the votes so received shall be made and returned to the Secretary of State in the same manner as votes for governor. And the Governor and Council shall open, examine and count the same, and make return thereof to the next legislature, and if it shall appear that a majority of the votes is in favor of said amendment, the governor shall, by his proclamation, declare such amendment to be adopted, and the constitution shall be amended accordingly, to take effect on the first Wednesday of January, in the year of our Lord one thousand eight hundred and eighty-five.

#### \* AMENDMENT 6.

##### ELIGIBILITY OF THE TREASURER OF STATE.

The treasurer shall be chosen biennially at the  
 Sec. 1, part 4,  
 article 5,  
 amended.  
 first session of the legislature, by joint ballot of  
 the senators and representatives in convention,  
 but shall not be eligible more than six years successively.

#### † AMENDMENT 7.

##### APPOINTMENT OF ADJUTANT GENERAL.

The major generals shall be elected by the  
 Section 3,  
 article 7,  
 amended.  
 Senate and House of Representatives, each having  
 a negative on the other. The adjutant general  
 and quartermaster general shall be appointed by the gov-  
 ernor. But the adjutant general shall perform the duties  
 of quartermaster general until otherwise directed by law.

\* Resolution adopted by legislature, Mar. 10, 1887. Adopted Sept. 10, 1888.

† Resolution adopted by legislature, Mar. 31, 1891. Adopted Sept. 12, 1892.

The major generals and brigadier generals and the commanding officers of regiments and battalions, shall appoint their respective staff officers; and all military officers shall be commissioned by the governor.

\* AMENDMENT 8.

EDUCATIONAL QUALIFICATION OF VOTERS.

No person shall have the right to vote, or be eligible to office under the constitution of this state, who shall not be able to read the constitution in the English language, and write his name; provided, however, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards at the time this amendment shall take effect.

† AMENDMENT 9.

ELECTION OF SENATORS TO FILL VACANCIES.

Section five, in article four, part two, is hereby amended by striking out the words "and in this manner all vacancies in the senate shall be supplied as soon as may be after such vacancies happen," and substituting therefor the following: "But all vacancies in the senate arising from death, resignation, removal from the state or like causes, shall be filled by an immediate election in the unrepresented district." The governor shall issue his proclamation therefor and therein fix the time of such election.

\* Resolution adopted by legislature, April 3, 1891. Adopted Sept. 12, 1892.

† Adopted Sept. 14, 1896.

## \* AMENDMENT 10.

## AUDITOR.

There shall be a state auditor who shall be elected biennially, on the first Wednesday of January, by joint ballot of the senators and representatives in convention, and whose duties and compensation shall be prescribed, determined, and fixed from time to time, by the legislature.

## CXXVII.

ACT ADDITIONAL TO THE ACT OF SEPARATION, BY  
THE GENERAL COURT OF MASSACHUSETTS.

FEBRUARY 25, 1820.

*Sources.*

All proceedings under the Act of Separation of June 19, 1819, would be null and void unless Maine was admitted into the Union before March 15, 1820. Because debates in the United States Senate over the slavery question in Missouri had prevented the admission of Maine, an act in addition to the Act of Separation arranged not only for an extension of time but also for a provisional government in Maine after the first of April, 1820, in case admission should be long delayed.

The act is in "Laws of the Commonwealth of Massachusetts . . . from May, 1818, to February, 1822" (Boston, 1822), VIII., 425-427; and "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829), Appendix V., 60, 61.

The text adopted is that of "Laws of the Commonwealth."

\* Adopted Sept. 12, 1898.

*Text.*

SEC. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the consent of the Legislature of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a Separate and Independent State, upon the terms and conditions, and in conformity to the enactments contained in an act, entitled "an act relating to the Separation of the District of Maine from Massachusetts Proper, and forming the same into a Separate and Independent State," whenever the Congress of the United States shall give its consent thereto, anything in the said act, limiting the time when such consent should be given, to the contrary notwithstanding: *Provided, however,* that if the Congress of the United States shall not have given its consent as aforesaid, before the fifteenth day of March next, then all parts of the act, to which this is an addition, and all matters therein contained, which by said act have date or operation from, or relation to the fifteenth day of March next, shall have date and operation from, and relation to the day on which the Congress of the United States shall give its consent as aforesaid; *Provided, also,* that if the Congress of the United States shall not give its consent as aforesaid, within two years from the fourth day of March next, this present act shall be void and of no effect.

SEC. 2. *Be it further enacted,* That if it shall not be known on the first Monday of April next, that the Congress of the United States has given its consent as aforesaid, the people of the said District of Maine shall elect, provisionally a Governor, Senators and Representatives, or other officers, necessary to the organization of the government thereof, as a Separate and Independent State, according to the provisions of the constitution of government agreed to by the

people of the said District. And the persons so elected, shall assemble at the time and place designated by the said constitution, if the consent of Congress, as aforesaid, shall be given during the present session thereof, but not otherwise; and when assembled as aforesaid, and having first determined on the returns, and qualifications of the persons elected, they shall have the power, as Delegates of the people, for that purpose, to declare on behalf and in the name of the people, the said elections of such persons to be constitutional and valid, for the respective offices and stations, for which they shall have been elected as aforesaid. And if such declaration shall not be made before the persons so elected, shall proceed to transact business, as the Legislature of said State, the said election shall be wholly void, unless it shall appear, that the consent of Congress aforesaid, shall have been given on or before the said first Monday of April next. And if the consent of Congress as aforesaid, shall be given after the said first Monday of April next, and the persons so elected, when assembled as aforesaid, shall not declare the said election valid and constitutional as aforesaid, within ten days from the last Wednesday of May next; then they shall cease to have any power to act in any capacity for the people of the said District, by virtue of their elections as aforesaid; and the people shall again choose Delegates, to meet in convention, in the manner, for the purposes, and with the powers set forth in the third and fourth sections of the act to which this is an addition; the said elections of such Delegates to be made on the first Monday of July next, and the Delegates to meet in convention, at Portland, on the first Monday of September next.

[Approved by the Governor, February 25th, 1820.]

## CXXVIII.

ACT FOR THE ADMISSION OF THE STATE OF MAINE  
INTO THE UNION, BY THE SIXTEENTH CON-  
GRESS OF THE UNITED STATES.

MARCH 3, 1820.

*Sources.*

After the long struggle over the admission of Maine and Missouri had been adjusted by a compromise bill, the act for the admission of Maine to the Union was formally approved March 3, 1820. Maine thus became the tenth legislative state, and the twenty-third state in the Union.

The text of the act is in "Statutes at Large of the United States of America" (Boston, 1850), III., 544; "The Public Laws of the State of Maine, passed by the Legislature at its Session held in January, 1822" (Portland, 1822), 1002; Ben: Perley Poore, compiler, "The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States" (Washington, 1877), 810; and "Statement on the Part of the United States, of the Case Referred, in pursuance of the Convention of 1827. . ." (printed but not published, Washington, 1829), Appendix V., 61.

The text adopted is that of "Statutes at Large," which is the official source.

*Text.*

WHEREAS, by an act of the state of Massachusetts, passed on the nineteenth day of June, in the year one thousand eight hundred and nineteen, entitled "An act relating to the separation of the district of Maine from Massachusetts proper, and forming the same into a separate and independent state," the people of that part of Massachusetts heretofore known as the district of Maine, did, with the consent of the legislature of said state of Massachusetts, form themselves into an independent state, and

did establish a constitution for the government of the same, agreeably to the provisions of said act — Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That from and after the fifteenth day of March, in the year one thousand eight hundred and twenty, the state of Maine is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever.

APPROVED, March 3, 1820.

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## CXXIX.

### ARMS AND SEAL OF THE STATE OF MAINE, ADOPTED BY THE FIRST LEGISLATURE OF THE STATE OF MAINE.

JUNE 9, 1820.

#### *Sources.*

One of the earliest acts of the legislature of the State of Maine at its first session was to provide a seal and arms for the state. As the description is both interesting and instructive, it is, with the resolve, given a place among these documents, which relate especially to the formation of a sovereign state.

The text adopted is that of "Resolves of the Legislature of the State of Maine at its First Session" (Portland, 1820), 21-23; the description has also been printed by Joseph Williamson, editor, "New England Historical and Genealogical Register" (1883), XXXVII., 43, 44.

#### *Text.*

#### *Description of Device, &c. of the SEAL and ARMS of the State of Maine.*

A SHIELD, argent, charged with a PINE TREE; a MOOSE DEER, at the foot of it, recumbent. Supporters; on dexter

side, an HUSBANDMAN, resting on a scythe; on sinister side a SEAMAN, resting on an anchor.

In the foreground, representing sea and land, and under the Shield, the name of the State in large Roman Capitals, to wit: — MAINE.

The whole surmounted by a Crest, the NORTH STAR. The Motto, in small Roman Capitals, in a label interposed between the Shield and Crest, viz: — DIRIGO.

#### EXPLANATION.

The Moose Deer (*Cervus alces*) is a native of the forests of Maine. When full grown, it is scarcely inferior to a horse in size. It has a neck, short and thick, a large head, horns dilating almost immediately from the base into a broad, palmated form, a thick, heavy upper lip, hanging very much over the lower, very high shoulders, and long legs. The color is a dark greyish brown, much paler on the legs and under part of the body. The hair is coarse and strong, and is much longer on the top of the shoulders, and ridge of the neck, than on other parts. The eyes and ears are large, the hoofs broad, and the tail extremely short. The greatest height of the Moose Deer is about seventeen hands, and the weight of such an animal about twelve hundred and twenty pounds. In deep snows they collect in numbers in pine forests.

The MAST PINE (*Americana, quinis ex uno folliculo setis*) leaves five together, cones cylindrical, imbricated, smooth, longer than the leaves, crest of the anthers of two minute, awl-shaped bristles. It is as well the staple of the commerce of Maine, as the pride of her forests. It is an evergreen of towering height, and enormous size. It is the largest and most useful of American Pines and the best timber for masts.

*Application of the Emblems, &c.*

## NAME.

The territory, embraced by the limits of the State, bears the name MAINE.

## CREST.

As in the Arms of the United States, a cluster of Stars represents the States, composing the Nation, the NORTH STAR may be considered particularly applicable to the most northern member of the confederacy, or as indicating the situation of the most northern State of the Union.

## MOTTO.

“ DIRIGO,” *I direct, or, I guide.* As the Polar Star has been considered the mariner’s *guide* and *director* in conducting the ship over the pathless ocean to the desired haven, and the centre of magnetic attraction; as it has been figuratively used to denote the point, to which all affections turn, and as it here is intended to represent the State, it may be considered the citizen’s *guide*, and the *object* to which the patriot’s best exertions should be *directed*.

## SHIELD.

*The Pine Tree.*

The stately Pine, with its straight body, erect head, and evergreen foliage, and whose beauty is exceeded only by its usefulness, while it represents the State, will excite the constant prayer of its citizens, *semper viridis*.

*The Moose Deer.*

A native animal of the State, which retires before the approaching steps of human inhabitancy, in his *recumbent* posture and undisturbed situation, denotes the extent of

unsettled lands, which future years may see the abodes of successive generations of men, whose spirit of independence shall be untamed as this emblem, and whose liberty shall be unrestricted as the ranges of the Moose Deer.

*The Supporters of the Shield.*

An Husbandman with a scythe represents Agriculture generally, and more particularly that of a grazing country ; while a Seaman resting on an anchor, represents Commerce and Fisheries ; and both indicate, that the State is *supported* by these primary vocations of its inhabitants.

The Committee appointed to report a suitable Device and Seal for the State of Maine,

REPORT, a Device for the Seal of the State, a sketch of which, with a description and explanation of the same, are herewith submitted.

They also report the following resolutions :

1. *Resolved*, That the Secretary of State be directed to procure a suitable Seal, conforming to the sketch aforesaid, and that he cause the Device aforesaid to be engraven thereon, and that said seal, when so completed, be deposited in the office of the Secretary of State, and that the same shall become and be the Seal of this State.

2. *Resolved*, That the Secretary of State cause the sketch, description and explanation aforesaid, to be fairly copied on parchment and deposited in the office of the Secretary of the State.

## CXXX.

TREATY WITH THE PENOBCOT TRIBE OF  
INDIANS, BY THE STATE OF MAINE.

AUGUST 17, 1820.

*Sources.*

August 17, 1820, the Penobscot tribe of Indians signed two treaties, one releasing the commonwealth of Massachusetts from all further obligations under the treaty of June 29, 1818, the other substituting the State of Maine in the place of the commonwealth.

The treaty with the State of Maine is printed with "Resolves of the Nineteenth Legislature of the State of Maine" (Augusta, 1839), 168-171; and again, with other Indian treaties, by order of the Council in "Acts and Resolves passed by the Twenty-third Legislature of the State of Maine" (Augusta, 1843), 258-261; it is also printed by Joseph W. Porter, editor, "Bangor Historical Magazine" (Bangor, 1886-87), II., 96-98.

The text adopted is that of the "Resolves" of 1839.

*Text.*

This writing, indented and made this seventeenth day of August in the year of our Lord one thousand eight hundred and twenty, by and between Lothrop Lewis of Gorham in the county of Cumberland and state of Maine, Esquire, commissioner, appointed by William King, Esquire, governor of said state, by and with the advice and consent of the council, in conformity to a Resolve of the Legislature of said State passed the twentieth day of June, in the year of our Lord one thousand eight hundred and twenty, to treat with the Penobscot tribe of Indians in said State, upon the subject expressed in said Resolve, on the one part; and the said Penobscot tribe of Indians, by the undersigned, Chiefs,

Captains and men of said tribe, representing the whole thereof on the other part; *Witnesseth*; That, the said Penobscot tribe of Indians, in consideration of the covenants and agreements, hereinafter mentioned, on the part of said Commissioner, in behalf of said State, to be performed, kept and fulfilled, do hereby grant, sell, convey, release and quit-claim, to said State, all their, the said tribe's right, title, interest and estate, in and to, all the lands and possessions, granted, sold and conveyed by us, to the commonwealth of Massachusetts, by our writing of indenture, made with said Commonwealth by their Commissioners, the honorable Edward H. Robbins, Daniel Davis and Mark L. Hill, Esquires, June the twenty-ninth, in the year of our Lord one thousand eight hundred and eighteen, saving and excepting, the reservations, in said indenture made and expressed. Meaning and intending hereby, to substitute and place, the said state of Maine, in the stead and place, of the said commonwealth of Massachusetts, to all intents and purposes whatsoever, as it regards said indenture last mentioned, with the said tribe of Indians, so that all and singular, the lands, rights, immunities or privileges, whatsoever, which said commonwealth of Massachusetts did, might, or could hold, possess, exercise and enjoy, under or by virtue of said indenture, or treaty, or by any other indenture, treaty or agreement whatsoever, shall be held, possessed, exercised and enjoyed in as full and ample a manner by said State of Maine.

And the undersigned commissioner, on his part, in behalf of said State of Maine, in consideration of the premises, and of the foregoing covenants and engagements of said tribe, does hereby covenant with said tribe, that they shall have and enjoy, all the reservations made to them, by virtue of said treaty of the twenty ninth of June, eighteen hundred and eighteen. And the undersigned Commissioner, in

behalf of said State of Maine, does hereby further covenant and agree with said tribe, that, as soon as the Commonwealth of Massachusetts, shall have made and fulfilled the stipulations on her part to be done and performed, under and by virtue of the fifth article of an act, "relating to the separation of the district of Maine from Massachusetts Proper, and forming the same into a separate and independent State," passed June the nineteenth, eighteen hundred and nineteen then the said State of Maine, shall and will, annually, and every year, in the month of October, so long as they shall remain a Nation, and reside within the said State of Maine, deliver for the use of the said Penobscot tribe of Indians, at Old Town, the following articles; to wit: five hundred bushels of corn, fifteen barrels of wheat flour, seven barrels of clear pork, one hogshead of molasses, and one hundred yards of double breadth broadcloth, to be of red color, one year, and blue the next year, and so on alternately, fifty good blankets, one hundred pounds of gunpowder, four hundred pounds of shot, six boxes of chocolate, one hundred and fifty pounds of tobacco, and fifty dollars in silver.

It being meant and intended, to assume and perform, all the duties and obligations of the Commonwealth of Massachusetts, toward the said Indians, whether the same arise from treaties or otherwise, and to substitute and place, the said State of Maine in this respect, to all intents and purposes whatever, in the stead and place of the Commonwealth of Massachusetts, so that said tribe may have continued to them, all the payments, and enjoy all the immunities and privileges, in as full and ample a manner, under this indenture or treaty, as they could have received or enjoyed, under the said treaty, of the twenty ninth of June, eighteen hundred and eighteen, if this present treaty had not been made.

Saving and excepting the two acres of land, which were by the treaty of June twenty-ninth, eighteen hundred and eighteen, to be purchased for the use of said tribe, in the town of Brewer, the performance of which, has been relinquished by the said tribe to the commonwealth of Massachusetts.

Reserving however to the Government of this State, the power and right to ratify and confirm, at pleasure, the doings of said Commissioner in the premises.

In witness whereof, the parties aforesaid, have hereunto set our hands and seals, the day and year first within written.

|  |         |
|--|---------|
| Lothrop Lewis.                                     | (Seal.) |
| John <sup>his</sup> Etien, Governor.<br>mark       | (Seal.) |
| John <sup>his</sup> Neptune, Lt. Governor.<br>mark | (Seal.) |
| Captain Francis <sup>his</sup> Lolor.<br>mark      | (Seal.) |
| Captain Etien <sup>his</sup> Mitchell.<br>mark     | (Seal.) |
| Sock <sup>his</sup> Joseph Captain.<br>mark        | (Seal.) |
| Piel <sup>his</sup> Marie Captain.<br>mark         | (Seal.) |
| Suasin <sup>his</sup> Neptune Capt.<br>mark        | (Seal.) |
| Awaroos <sup>his</sup> Mitchel Capt.<br>mark       | (Seal.) |
| John <sup>his</sup> Oroon Capt.<br>mark            | (Seal.) |
| Joseph Marie <sup>his</sup> Neptune, Esq.<br>mark  | (Seal.) |
| Joseph <sup>his</sup> Lion.<br>mark                | (Seal.) |
| Glocian <sup>his</sup> Awaroos.<br>mark            | (Seal.) |

Capt. Nicholas <sup>his</sup>  
mark X Tomah. (Seal.)

Sabattis <sup>his</sup>  
mark X Tomah. (Seal.)

SIGNED, SEALED AND DELIVERED

IN PRESENCE OF US:

Wm. D. Williamson,  
William Emerson,  
Joseph Treat,  
Stephen L. Lewis,  
Jno. Blake,  
Eben. Webster.

PENOBSCOT, S. S. August 17, 1820.

Personally appeared Lothrop Lewis, John Etien, John Neptune, Francis Lolor, Etien Mitchel, Piel Mitchell, Sock Joseph, Piel Marie, Suasin Neptune, Awaroos Mitchel, John Oroon, Joseph Marie Neptune, Joseph Lion, Glocian Awaroos, Nicholas Tomah, and Sabattis Tomah, subscribers to the foregoing instrument, and acknowledged the same to be their free act and deed.

BEFORE ME,

WM. D. WILLIAMSON, *Jus. Peace.*

### CXXXI.

ACT FOR COMPENSATION OF COMMISSIONERS UNDER  
THE ACT OF SEPARATION, BY THE THIRD  
LEGISLATURE OF THE STATE OF MAINE.

FEBRUARY 6, 1822.

*Sources.*

The act of the legislature of the State of Maine which provided for the payment of commissioners is entitled, "An

Act to provide for carrying into effect certain stipulations in the Act for erecting the District of Maine into a separate State." In accordance with Section 5 of the act, the secretary of the State of Maine transmitted a copy to the commonwealth of Massachusetts. The Act of Compensation was passed in concurrence with a similar act by the General Court of Massachusetts, January 29, 1822.

The act is inserted in this collection because it is a link in the chain of obligations connected with the Act of Separation. This text is found in "The Public Acts of the State of Maine, passed by the Legislature at its Session, held in January, 1822" (Portland, 1822), 890, 891.

*Text.*

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That the Commissioners appointed by virtue of the Act, entitled "An Act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," passed the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, shall each be entitled to, and receive as compensation for their services, five dollars a day for the time they shall be actually engaged in executing the duties assigned them by virtue of said Act, and for their necessary travel in and about the same, a like sum for every thirty miles travel, the same to include as well their past, as future services; the aforesaid compensation to be in full for their expences as well as their services.

SECT. 2. *Be it further enacted,* That upon the said Commissioners, or a major part of them, certifying to the Governor an account of their travel and attendance upon said services, at the rates aforesaid, the Governor, by and with the advice of the Council, be, and he hereby is authorized and empowered to draw his warrants on the Treasury of the State for the one half of the amount of said account,

in favor of said Commissioners, as shall, by said certificate and account, appear to be entitled to receive the same.

SECT. 3. *Be it further enacted*, That for defraying the one half of the expense of surveying the lands in the State of Maine, to be surveyed and divided, the charges attending said survey, and also for defraying one half of the compensation of the Secretary of said Commissioners, and paying for the stationary necessary to be used by them, exclusive of the personal expences of said Commissioners, the sum of three thousand dollars, be, and hereby is appropriated as a contingent fund.

SECT. 4. *Be it further enacted*, That when the said Commissioners, or a major part of them, shall request the same, the Governor, by and with the advice and consent of Council, be, and hereby is authorized and requested to draw his warrant from time to time for such sum or sums of money, not exceeding said three thousand dollars, as they shall certify to be necessary for the purposes mentioned in the said third section of this Act, in favor of such person or persons as they shall direct.

SECT. 5. *Be it further enacted*, That the Secretary of State, be, and he hereby is directed as soon as may be, to transmit to the Secretary of the Commonwealth of Massachusetts a copy of this Act.

[This Act passed February 6, 1822.]

## CXXXII.

AGREEMENT FOR ADJUSTING THE PERSONAL  
CONCERNs BETWEEN THE TWO STATES,  
BY THE COMMISSIONERS UNDER  
THE ACT OF SEPARATION.

MAY 25, 1822.

*Sources.*

By Article IV., Section 1, of the Act of Separation, the personal concerns of the two states were to be adjusted by commissioners who were to give two-thirds of all the personal property to the commonwealth of Massachusetts and the remaining third to the State of Maine. The assignment by the commissioners, May 25, 1822, divided, on that basis, nearly all the personal property held in common. June 15, 1822, the General Court of Massachusetts passed a resolve for carrying into effect the stipulations of the commissioners. In 1823 bonds and securities of small value necessitated a second division, which gave \$281.73 additional to Massachusetts and \$140.87 to Maine. A few unassigned securities of no value were lodged with the treasurer of the commonwealth, according to an agreement printed with "Resolves of the Fourth Legislature of the State of Maine" (Portland, 1824), Appendix, 361-363.

The agreement of May 25, 1822, is reprinted from "Resolves of the Third Legislature of the State of Maine" (Portland, 1823), Appendix, 263-265.

*Text.*

We, the undersigned, Levi Lincoln, James Bridge, George Bliss, Benjamin J. Porter, Lothrop Lewis and Silas Holman, appointed Commissioners under and by virtue of the law of the Commonwealth of Massachusetts, entitled "An Act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a

separate and independent State ; " having endeavored faithfully and assiduously at different times, from the first meeting of said Commissioners, on the thirtieth day of October, in the year of our Lord one thousand eight hundred and twenty, unto the sixth day of March last, to agree upon the description and amount of all such debts, annuities, indian subsidies or claims which remain due or unsatisfied, and upon the description, amount and assignment of a just portion of the productive property held by said Commonwealth as an equivalent and indemnification therefor : And having made a division of the Military Stores and Ordnance belonging to said Commonwealth on the fifth day of March last : Being unable to agree upon and complete an assignment and division of the residue of said personal property, we adjourned on said sixth day of March last, to meet at Portland on the sixteenth day of May instant, at which time and place we resumed the subject and made further examinations, and in the spirit and with a view to compromise mutually made further concessions. Notwithstanding the difficulty of ascertaining the value and amount of said personal property and the extent of the liabilities of said Commonwealth, we have unanimously agreed upon a settlement, assignment, and division thereof, and have assigned the sum of thirty-seven thousand, four hundred and seventy-one dollars and three cents, estimated by us as a just portion of the productive property to be held by the said Commonwealth, as an equivalent and indemnification to said Commonwealth for all debts, annuities, and indian subsidies or claims due from said Commonwealth, which now remain due, or unsatisfied ; except the subsidy or annuity which may be due to the Penobscot tribe of Indians after this present year. All the surplus of the said property, so holden as aforesaid, amounting to the sum of seventy-one thousand nine hundred and ninety-seven dollars and sixteen

and a half cents, exclusive of the avails of the Province house, and of the ordnance, arms and military stores, we have divided, and do hereby divide, between the said Commonwealth and the said State, in the proportion of two thirds to the said Commonwealth, and one third to the said State in manner following, to wit; to the State of Maine the sum of Fifteen thousand eight hundred eighty-eight dollars and fifty cents to be paid in cash out of the Treasury of said Commonwealth, and also the one third part in value of all notes, bonds, and securities contained in certain schedules, marked B and C, from the Treasurer of said Commonwealth, made on the sixteenth day of March, 1820, the same to be taken as they stood on the thirteenth day of May instant, and also the one third part in value of all notes, bonds, contracts and securities remaining in the land office of said Commonwealth, as they existed on the same day, to be divided by us, as soon as may be; and also we have divided and assigned to the said State of Maine, all sums of money, dues, claims, and demands belonging to said Commonwealth from the Treasurers of the several Counties, now within the State of Maine, Justices of the Peace, Clerks of the several Courts and County Attorneys for the several Counties now in said State, and also from any person or persons who have holden said offices — and also all monies, dues and demands from any person or persons now heretofore Sheriffs or Gaolers of any County of said State, for fines, forfeitures, and bills of costs in criminal prosecutions; together with the ordnance, arms and military stores which we have assigned and set out to said State, according to a schedule signed by Benjamin J. Porter and Silas Holman, bearing date the seventeenth day of May instant, and ratified by us the same day, which accompanies this agreement; all which, with the sum of Fifteen thousand seven hundred and forty-two dollars and twelve cents,

advanced to said State, by said Commonwealth, and that portion of the tax due from the several Banks in said State on the first day of April, in the year of our Lord one thousand eight hundred and twenty, which accrued before the sixteenth day of March, in said last mentioned year, heretofore paid into the Treasury of said State, is the full third part and share, as well of the personal property mentioned in said fourth article of said section, as also the avails of the Province house of said Commonwealth, and in full satisfaction of all claims and demands on account of the personal property of said Commonwealth, mentioned in said fourth article of said section; and also of the moiety of seven hundred and nine dollars and seventy-four cents, paid by said State in and about the public lands within said State. And the whole of the residue of said personal property of said Commonwealth, mentioned in said fourth article of said section, of every description and nature whatever, we have divided and do hereby divide to the said Commonwealth, as the just and full two third parts of said property. And it is hereby agreed that the said notes and securities, so divided, and the said monies, dues, claims and demands, so assigned as aforesaid, are to be taken as they are, at the sole risk of the party who shall receive them, without claim or challenge on the other party. And it is further agreed that the said State of Maine, and its officers, shall and may have and use the name and authority of the said Commonwealth and the proper officers thereof, in prosecuting and collecting any of said notes and securities, contracts, debts, dues, claims or demands so divided or assigned to said State, but at the sole and proper risk and charge of said State.

This agreement and division is to be a full and final settlement and adjustment of all personal property, to a portion of which the said State, under said fourth article is or

might be entitled ; and also of all liabilities and claims for indemnification for which it was thereby made chargeable. *Provided however*, and it is expressly agreed, that any subsidy or annuity which, after the present year, shall by virtue of the Treaty heretofore made by the said Commonwealth with the Penobscot tribe of Indians, become due and payable, is not hereby adjusted or settled.

IN WITNESS WHEREOF, we have set our hands to this agreement in duplicate, this twenty-fifth day of May, in the year of our Lord, one thousand eight hundred and twenty-two.

LEVI LINCOLN,  
JAMES BRIDGE,  
GEORGE BLISS,  
BENJA. J. PORTER,  
LOTHROP LEWIS,  
SILAS HOLMAN.

ATTEST — JAMES L. CHILD, *Secretary.*

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### CXXXIII.

#### DIVISION OF THE PUBLIC LANDS, BY COMMISSIONERS UNDER THE ACT OF SEPARATION.

DECEMBER 28, 1822.

##### *Sources.*

December 28, 1822, the commissioners appointed to divide the lands and islands belonging to the two states in common made report of an equal division according to Article I., section 1, of the Act of Separation.

The report was printed with "Resolves of the Third Legislature of the State of Maine" (Portland, 1823), Appendix, 266-278; that part which relates to the division of

the islands was published by Joseph W. Porter, editor, "Bangor Historical Magazine" (Bangor, 1887-88), III., 207-209.

The several reports as presented from year to year are included in this compilation to facilitate special study of territorial rights in Maine. The text adopted is that of the "Resolves."

*Text.*

Whereas, in and by a certain act of the Commonwealth of Massachusetts, passed the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "an act relating to the separation of the District of Maine from Massachusetts proper, and forming the same in a separate and independent State," it was among other things enacted that all the lands belonging to the Commonwealth within the District of Maine, should belong, the one half thereof to the said Commonwealth, and the other half thereof to the State to be formed within the said District, to be divided by Commissioners, to be appointed, as in and by the same act was provided, between the respective States in equal shares, or moieties, in severalty, having regard to quantity, situation and quality: And whereas Commissioners, appointed pursuant to said act, have determined in part execution of the powers vested in them by virtue of said act, that the several tracts and parcels of land herein-after mentioned and described, lying at the date of said act in said District, and now in the State of Maine, should be divided and holden in severalty:

Now therefore, know all men by these presents, that we, Levi Lincoln, James Bridge, George Bliss, Benjamin J. Porter, Silas Holman, and Daniel Rose, Esquires, Commissioners appointed according to the provisions of the aforesaid act, have divided, assigned and set out in severalty, the following tracts and parcels of land, to the Commonwealth

of Massachusetts and to the State of Maine, respectively, in severalty, which lie easterly of Penobscot River, and northerly of the north line of Bingham's lottery lands, so called, and in the third and fourth range of townships, as laid down and delineated on a certain map or plan made by Silas Holman and Daniel Rose, Esquires, bearing date December 26, A. D. 1822, transcripts of which are herewith lodged in the offices of the Secretary of said Commonwealth and of said State, respectively, and also particularly described in a Report by the said Holman and Rose, made to us, bearing date December 19, A. D. 1822, accompanying which report is a Schedule of the several surveys of the lines and boundaries made by order of the said Commonwealth, and by order of said Commissioners, to wit: to the said Commonwealth: — River township number three, lying on Penobscot river, belonging to the third range, containing seventeen thousand and sixty-two acres; township number six in said third range, containing twenty-two thousand two hundred and sixty-four acres; township number seven in the same range, containing twenty-three thousand and forty acres; township number eight in said third range, containing twenty-three thousand and forty acres; township number nine in the same range, containing twenty-three thousand and forty acres; township number ten in the same range, containing twenty-five thousand eight hundred and eleven acres; township number eleven in the same range, containing eight thousand three hundred and seventy-four acres; river township number four, belonging to the fourth range of townships on the east side of Penobscot River, lying on Penobscot River, containing twenty-five thousand nine hundred and ninety-seven acres; township number six in said fourth range, containing nine thousand nine hundred and ninety-two acres; township number seven in the same fourth range, containing twenty-three thousand

and forty acres; township number nine in the same range, containing twenty-three thousand five hundred and eighty-three acres; to which we have added, in order to equalize the same, township number two in the ninth range of townships west of Penobscot River, north of the Waldo patent, containing twenty-eight thousand six hundred and fifty-six acres; township number three in the same last mentioned range, containing twenty-eight thousand eight hundred acres; also all that part of township number two, in the seventh range of townships north of said Waldo patent, which has not been heretofore granted, containing two thousand four hundred and fifteen acres; making in the whole three hundred and eight thousand and one hundred and fifty-four acres, which we call the second division, and assign and allot the whole thereof to the said Commonwealth of Massachusetts in severalty.

And we have also divided and allotted the following tracts and parcels of land, particularly delineated and laid down in the aforesaid map or plan of said Holman and Rose, and described in their aforementioned report, and the schedules annexed thereto, as lying in the first and second ranges of townships east of said Penobscot river, as herein described, to wit:— River township number one, belonging to the first range of townships north of the Bingham purchase, on the east side of said Penobscot river, containing fourteen thousand six hundred and forty-eight acres; half township number one, in the said first range, containing twelve thousand one hundred and ninety-one acres; township number two, in said first range, containing twenty-five thousand four hundred and one acres; township number three in said range, containing twenty-six thousand and ten acres; township number four, in said first range, containing thirty-eight thousand four hundred and twenty-four acres: Also half township number six, in said range,

containing eleven thousand five hundred and twenty acres : Also, township number two of Titcomb's survey, in the first range of townships according to said map and plan of said Holman and Rose, called the Wait township, containing twenty-three thousand and forty acres : Also, township number one, of said Titcomb's survey, in the aforesaid first range of townships, containing twenty-two thousand nine hundred acres ; Also, river township number two, belonging to the second range of townships on the east side of Penobscot river, bounding on said river, containing seventeen thousand six hundred and ninety-five acres ; township number five, in said second range, containing twenty-three thousand and forty acres ; township number six, in said second range, containing twenty-six thousand seven hundred and seventy-three acres ; township number seven, in said second range, containing thirty thousand acres ; township number eight in said second range, containing twenty-nine thousand three hundred and fifty-one acres ; township number nine, in said second range, containing nineteen thousand three hundred and sixty acres ; township number one, of said Titcomb's survey, in the second range of townships, on the aforesaid plan or map of said Holman and Rose, containing twenty-three thousand seven hundred acres, making in the whole, three hundred and forty-four thousand and fifty-three acres, which we have designated as the first division, and have allotted, divided and assigned the whole thereof to the said State of Maine ; which said two divisions we adjudge and determine, having regard to situation and quality, to be equal the one to the other.

And we have divided and allotted the residue of the lands belonging to the said Commonwealth and the said State, lying in the seventh, eighth and ninth ranges of townships north of the Waldo patent, and west of Penobscot river, except the lots reserved for the future use of government,

into two divisions — the first division containing township number one, in the eighth range of townships north of the Waldo patent, which contains seventeen thousand eight hundred and thirty-one acres; township number seven, in the ninth range of townships north of the Waldo patent, containing twenty-three thousand and forty acres; township number four, in the said ninth range, containing twenty-three thousand and forty acres; half township number three, in the eighth range, containing eleven thousand five hundred and twenty acres; also that part of township number eight, in the said ninth range, which has not been conveyed, containing four thousand four hundred and seventy-six acres, amounting in the whole to seventy-nine thousand nine hundred and seven acres, which we have divided and allotted to the said State of Maine, to hold in severalty.

The second division, containing township number one, in the seventh range of townships, north of said Waldo patent, containing twenty-eight thousand and forty-one acres; half township number six, in the ninth range of said townships, north of said patent, containing eleven thousand five hundred and twenty acres; township number two, in the eighth range of said townships north of said patent, containing twenty-five thousand two hundred and twenty-five acres; and township number four, in the same eighth range, containing twenty-three thousand and forty acres, making in the whole eighty-seven thousand eight hundred and twenty acres, which we have divided and allotted to the Commonwealth of Massachusetts. The above townships and parts of townships are delineated and described in the map or plan before referred to, made by said Holman and Rose, and their said report made to said Commissioners, bearing date the 19th December, 1822. The said divisions having regard to situation and quality we adjudge to be equal the one to the other.

And we have divided and allotted into two divisions that part of the nine townships of the old Indian purchase, so called, which has not been granted or conveyed by the Commonwealth, the first division to contain the lands following, lying on the east side of Penobscot river, to wit, number one, according to a plan and survey made by Park Holland, Jonathan Maynard, and John Chamberlain, under the direction of Salem Town, Esq., containing originally sixteen thousand seven hundred and sixteen acres, of which three hundred and sixty-two acres have been conveyed, and sixteen thousand three hundred and fifty-four acres remain unsold, of which thirteen hundred and sixty-seven acres have been contracted to be sold by the Commissioners of the Land Office; and there remained due on said contracts on the thirteenth day of May last, thirteen hundred and eighteen dollars and forty-one cents; the said land so contracted, and the said contracts to be reckoned as a part of said division; township number two, in said plan and survey, containing originally twenty-one thousand six hundred and thirty-three acres, of which has been contracted as aforesaid, four hundred and eighty-nine acres; on which contracts were due on said thirteenth day of May, two hundred and forty-four dollars and sixty-three cents, which said land so contracted, and the said contracts also make part of said division; also township number four, as described in said map and survey, containing originally twenty-eight thousand six hundred and eighty acres, of which has been conveyed three thousand eight hundred and sixty-one acres, and four hundred and eighty-two acres of the residue have been contracted for by said Commissioners, on which contracts there was due on said thirteenth day of May, four hundred and ninety-three dollars and thirty-one cents, making in the whole land unconveyed in said division, sixty-two thousand eight hundred and six acres, which said

division we divide and allot to the State of Maine, to have all the rights and perform all the duties in relation to said lands contracted for, and said contracts which the said Commonwealth would now have, or be liable to perform, if not so allotted and divided.

The second division to contain township number one, on the west side of said Penobscot river, according to the aforesaid map and survey, containing twenty thousand and sixty-two acres, of which contracts have been made by said Commissioners for eleven hundred and thirty-nine acres, and there was due on said contracts one thousand and sixty-one dollars and twenty-three cents on said thirteenth day of May, which said contracts are to be included in said division: township number two, on said map and survey on the west side of said Penobscot river, containing originally, nineteen thousand two hundred acres, of which three thousand acres have been granted or conveyed, and there remains unsold sixteen thousand two hundred acres; also seven hundred acres of the lands reserved in the conveyance of township number three on the west side of said river to Maine Literary Institution and which were not conveyed to John Bennoch; also township number four on said map and survey, on said west side of said river, containing originally twenty thousand and one hundred and forty-eight acres, of which sixteen thousand nine hundred and sixty-eight acres have been conveyed, and three thousand one hundred and eighty acres remain unsold, of which contracts have been made by said Commissioners for one hundred and one acres, on said contracts was due on said thirteenth day of May, one hundred and nine dollars and ninety-eight cents, and said contracts are part of said division: township number five on said map and survey, on the west side of said river, containing originally eight thousand five hundred and ten acres, of which three thousand and

fifty acres has been granted or conveyed, and there remains unsold five thousand four hundred and sixty acres; and also township number three, on said map and survey, on the east side of said river, containing originally twenty-four thousand seven hundred and fourteen acres, of which fourteen thousand five hundred and seventy-seven acres have been granted or conveyed, and contracts have been made by said Commissioners for six thousand and eighty-two acres, on which contracts there was due on said thirteenth day of May, six hundred and thirteen dollars and eighty-seven cents, making in the whole fifty-six thousand seven hundred and thirty-nine acres; and in order to make this second division equal with the first, we have also divided and allotted the following lots in the town of Penobscot, in the county of Hancock, to wit, number fifty-eight, number sixty, number sixty-one, number sixty-two, and the parts of lots number seventy-five, seventy six, seventy-nine, ninety, ninety-two; lots numbered ninety-one, number ninety-six, containing in the whole eleven hundred and fifty acres and one hundred and forty rods, which makes said division in the whole, fifty-seven thousand eight hundred and eighty-nine acres and one hundred and forty rods, which we have divided and allotted to the Commonwealth of Massachusetts, as a just and equal division, the said Commonwealth to have all the rights, and be liable to perform all the duties which the said Commonwealth would have had or been liable to, had no division of the State been made. And we have also made a division of the lands belonging to the said Commonwealth and State, within the towns of Ellsworth, Surry, and Lubec, and township number twenty-three west of Machias, excepting a lot in Ellsworth, heretofore reserved for the future use of Government, in manner following, to wit: We have divided and allotted to the Commonwealth of Massachusetts in

severalty, the land in the town of Surry, containing seven thousand eight hundred and forty acres; the land in the town of Lubec, containing eight thousand three hundred and forty-five acres; the northerly half part of the easterly half of township number twenty-three, west of Machias, the dividing line between the north and south half, to begin on the west line of Machias, at a point one hundred and twenty rods south of the northwest corner of said Machias, and to run westerly in a parallel line with the north line of said township number twenty-three to the east line of Bluehill Academy lands, containing seven thousand two hundred and ninety acres, and also in the town of Ellsworth, lots numbered two hundred and thirty-four, and number two hundred and twenty-two, excepting therefrom so much of said last mentioned lot as is included in the contract made by the said Commonwealth with Charles Jarvis; number two hundred and seventeen, number two hundred and five, number two hundred, number one hundred and seventy-five, number one hundred and eighty, and so much of lot number one hundred and eighty-three as lies southerly of Reed's Pond, so called; the whole quantity estimated to be twelve hundred and four acres, as said lots are marked and designated upon the plan made and returned by said Silas Holman, Esq. to the Commissioners, containing in the whole of said division twenty-four thousand six hundred and seventy-nine acres. And to the share of the said State of Maine, we have allotted and assigned in severalty the southerly half part of said half township number twenty-three west of Machias, to be divided from the northerly half part by the dividing line aforesaid, containing seven thousand two hundred and ninety acres, and all the lands in the town of Ellsworth, belonging to said Commonwealth and State, except the lots and lands herein before divided and assigned to the said Commonwealth, and also excepting

said lot reserved for the future use of Government; together with the right, title and interests of the said Commonwealth, in three lots of land in said town under contract by the said Commonwealth, to Charles Jarvis, and the contract so made in the existing state of said contract, the said State to have all the rights and be subject to all the duties and obligations of said Commonwealth, by virtue of said contract, computed to contain including said lots so contracted to said Jarvis, about fourteen thousand one hundred and fifty-six acres; which said shares and divisions so made to the said Commonwealth and State respectively, having regard to the situation and quality of said lands, we do adjudge and determine to be equal the one to the other.

And we have also divided into two shares to be holden in severalty by the said Commonwealth and State respectively, the lots reserved by said Commonwealth for the future use and appropriation of Government out of the grants and conveyances heretofore made, to wit: to the said Commonwealth we have divided and assigned the reserved lots in the town of Orrington, which contains two hundred acres. In the town of Corinth, in the town of Newport, in the town of Sangerville, in township number one in the third range north of the Waldo Patent, and township number one in the fourth range north of said Patent; township number seven in the eighth range, north of said Patent, and in Blakesburg and in number one, in the sixth range, north of said Patent, in the county of Penobscot, and in the town of Ellsworth, in the county of Hancock, each containing three hundred and twenty acres; and in the county of Washington, the reserved lots in the towns of Jonesborough, Denneysville and Perry, each containing two hundred acres; and the reserved lot in the town of Columbia, containing three hundred and twenty acres, and in township number three, in the first range, west of the Schoodic

river, three thousand three hundred and twenty acres, and in township number one, in the fourth range, out of the grant to Williams College, six hundred and twenty acres, and in each of the following townships, to wit: number eighteen, north of Machias, number thirteen adjoining Machias, number fourteen, east of Machias, the reserved lots containing three hundred and twenty acres each; and in township number ten, east of Machias, the reserved lot containing two hundred acres; and in the Portland Academy grant, one hundred and sixty acres; and in township number one, range first, west of Schoodic River, three hundred and twenty acres; and in the County of Kennebec, the reserved lots in the towns of Chesterville and Temple, each containing three hundred and twenty acres; and in the County of Somerset, the reserved lots in each of the following towns to wit: Madison, Anson, Avon, Phillips, Palmyra, Corinna and Freeman, each containing three hundred and twenty acres; and the reserved lots in township number five, in the sixth range, north of the Waldo Patent, containing three hundred and twenty acres; and in township number five, in the second range, north of the Waldo Patent, containing one hundred and sixty acres; and in the County of Oxford, the reserved lots in each of the following towns and townships, to wit: in Dixfield, Andover, Number six, between Kennebec and Androscoggin Rivers; Number eight, between said rivers; Number two, in the first range, west of Bingham's Kennebec Purchase; Number three, in the second range, west of said Purchase; Number five, in the third range, west of said Purchase; Number four, in the fourth range, west of said Purchase; Number three, in the third range, west of said Purchase; Number five, in the second range, adjoining New-Hampshire; Township marked letter B; Township marked letter E; Township marked A2; and Township

number one, the south side of Androscoggin River; each of said reserved lots containing three hundred and twenty acres; the reserved lot in the town of Sumner, containing two hundred acres; and Andover surplus containing one hundred and sixty acres; making in the whole, seventeen thousand seven hundred and eighty acres, which we assign and allot to the Commonwealth of Massachusetts. And we have divided and allotted to the said State of Maine, to hold in severalty the reserved lots in the several towns and townships following: In the county of Penobscot, in the towns of Carmel, New Charlestown, Brownville, Williamsburg and Atkinson, and in townships number three, in the seventh range, north of the Waldo Patent, and number three, in the sixth range, north of said Patent, each containing three hundred and twenty acres, and the reserved lot in the half township number three in the eighth range north of said Patent, containing one hundred and sixty acres; and in the county of Hancock, the reserved lots in number eight, and in the Gore adjoining Ellsworth, each containing three hundred and twenty acres; and in the county of Washington, the reservation in township number three in the second range, west of Schoodic river, containing three thousand three hundred and twenty acres, and in township number twelve or Orangetown, containing two thousand eight hundred acres, and in the town of Calais, the reserved lot containing three hundred and twenty acres, and in the county of Kennebec, the reserved lots in the town of New-Sharon, containing three hundred and twenty acres; in the county of Somerset, the reserved lots in the respective towns of Strong, Solon, New-Vineyard, Cornville, St. Albans, Ripley and New-Portland, and in township number eight, in the eighth range, north of the Waldo Patent, in township number three, first range, north of Plymouth Company, and in township assigned to the

Proprietors of the Kennebec purchase, north of Moosehead lake, each containing three hundred and twenty acres; and in the county of Oxford, the reserved lots in the several towns and townships, following to wit: the town of Albany, Weld and township number four between Kennebec and Androscoggin river, and in township number seven, between said rivers, and in township number one, in the first range, west of Bingham's Kennebec Purchase, number three, in said range, number four, in the third range, west of said Purchase, and in number two in said third range, number five, in the fourth range, west of said Purchase, number two, in said second range, township marked letter C, township marked letter D, township marked letter A, No. 1, township marked letter A, No. 3, or Newry, each of said reserved lots, containing three hundred and twenty acres, and also in the towns of Hartford and Buckfield, each containing two hundred acres, amounting in the whole, to seventeen thousand eight hundred and eighty acres, which said divisions and allotments to the said Commonwealth and the said State respectively, we do adjudge and determine having regard to situation and quality, to be equal the one to the other.

And we have also divided and allotted to the said Commonwealth and the said State, in severalty, the lots reserved for the future use and appropriation of the Commonwealth within the tracts of land heretofore conveyed to William Bingham. To the said Commonwealth, we have divided and allotted all the lots reserved in the several tracts of land conveyed to said Wm. Bingham, by the said Commonwealth, situated in the counties of Hancock and Washington, except that portion of said reserved lots in the lands conveyed to said Bingham, on the twenty-eighth day of January, seventeen hundred and ninety-three, by deed marked number one, of townships number 7, 8, 9, 10, 11

and 12, in the margin of the record of deeds in the land office book, number two page one hundred and eighty, amounting in the whole exclusive of said excepted lots, to sixteen thousand seven hundred and forty-seven acres, to hold to the said Commonwealth in severalty. And to the said State of Maine, we have divided and allotted the said reserved lots in the tracts of land conveyed to said William Bingham, which are situated in the counties of Somerset and Oxford, called said Bingham's Kennebec purchase, containing in the whole, fifteen thousand five hundred and seventy-three acres, to hold to the said State of Maine in severalty, and we do adjudge and determine that the said shares and divisions so allotted, having regard to situation and quality are equal the one to the other. And we have divided and allotted the Islands in the said State, which by a report of George W. Coffin, Esquire, agent of the land office of the Commonwealth of Massachusetts, appeared to remain as the property of the said Commonwealth. And we have divided and allotted to the said Commonwealth and said State respectively, all the right, title and interest which the said Commonwealth, or the said Commonwealth and the said State had or might have in said Islands hereafter named and described; a particular description of them being given in the books in the said land office to which we refer, to wit: to the Commonwealth of Massachusetts, we have divided and allotted in severalty, Monhegan Island, containing one thousand acres; Allen's Island, off the mouth of George's river, containing three hundred acres; Wooden Ball Island, near Matinicus, containing one hundred seventeen acres and three fourths of an acre; Brimstone Island, between Ten pound Island and Matinicus, containing thirty acres; Little green Island, off Thomaston, containing twenty-five acres; Black Island, north of the Isle of Holt, containing fifty acres and three fourths of

an acre; Island marked G, north of said Isle of Holt, containing four acres: Poor Island, near Deer Island thoroughfare, containing thirty acres; Island marked V, near said thoroughfare, containing three acres; Island marked W, near said thoroughfare, containing three acres; Island marked X, near said thoroughfare, containing two acres; Island marked M, near said thoroughfare, containing twenty-eight acres; Island marked I, near said thoroughfare, containing forty-three acres; Camp Island, near said thoroughfare, containing forty-six acres and three fourths of an acre; Island marked H, near said thoroughfare, containing twenty-nine acres and one fourth of an acre; Indian Island, near said thoroughfare, containing twenty-nine acres and one fourth of an acre; Ash, or Saddleback Island, near said thoroughfare, containing fifty-four acres; Island marked D, near said thoroughfare, containing four acres; Island marked E, near said thoroughfare, containing four acres; Island marked K, near said thoroughfare, containing nine acres; Island marked L, near said thoroughfare, containing six acres; Island marked Z, near said thoroughfare, containing two acres; White Island, in Egamoggin reach, containing eleven acres; Moose Island, in Bluehill bay, near Mount Desert, containing fifty acres; Island marked D, in said Bay, containing eight acres and an half of an acre; Ship Island, in said bay, containing seven acres and three fourths of an acre; Island marked B, between Mount Desert and Bartlet's Island, containing seven acres and an half of an acre; Holt's Island, in carrying place bay, between Newbury neck and Bluehill, containing twelve acres; Island marked A, in Mount Desert bay, containing eight acres and three fourths of an acre; Small Island, opposite Heard's bay, containing four acres; Hopkin's Island, in Mount Desert bay, containing one hundred and seventeen acres: Island marked A, east of Thomas's Island,

in Frenchman's bay, containing two and an half acres; Island marked B, situated near the last, containing three acres; Black Island in Frenchman's bay containing three acres; Burnt Island, in said bay, containing three acres; Petit Manan Island, south of Steuben, containing sixty acres; Birch Island, in Pleasant River bay, between Addison and Harrington, containing twenty acres; Tebut's or O. Island, in Mispecky reach, containing eleven acres; Island H, containing forty-nine acres; Island I, containing five and an half acres; Island E, containing ten and an half acres; Island G, containing twenty-eight acres; the four last mentioned Islands being a little southerly of Mispecky reach; Soward's Island, in Flander's bay, near Gouldsborough, in Frenchman's bay, containing seven acres; Bar Porenpine Island, in Frenchman's bay, near Mount Desert Island, containing fifty acres; Island marked B bar, or Birch Island, situated near the last island, containing three acres; Ragged —— Island, near Matinicus, containing two hundred and twenty-seven acres; Great Green Island, near Matinicus, containing ninety-five acres; Matinic Island, near Matinicus, containing three hundred acres; Sevey's Island, near Allen's Island, containing forty acres; McCobb Island, off Thomaston, containing thirty acres; Hay Island, near Matinicus, containing ten acres; Mananas Island, near Monhegan, containing forty acres; Island marked M, a little south of Mispecky reach, containing three acres; Island Q, a little north of Mispecky reach, containing three acres; Island marked R, situated near the last mentioned island, containing five acres; Island marked S, situated near the two last islands, containing four acres; Island marked T, containing one acre and one fourth of an acre; Island marked H, containing two acres, each situated a little northerly of Mispecky reach; Head Island, near the west end of little Deer Island, containing eight acres.

And to the said State of Maine, all the right, title and interest, which the said Commonwealth or the said Commonwealth and said State had, or might have, in the following Islands, to wit: Great Isle of Holt, south of Deer-Island, containing four thousand one hundred acres; White or mark hands Island, north of the Isle of Holt, containing one hundred and eighty-six acres; Birch Point Island, off the north part of the Isle of Holt, containing nine acres; Spoon Island, east of the Isle of Holt, containing fifteen acres; Bear Island, containing forty-six acres and three-fourths of an acre; Round Island, containing twenty-nine acres and one fourth of an acre; Island marked A, containing twenty acres; Island marked R, containing twenty aeres and three-fourths of an acre; Island marked P, containing twenty-four acres and one-fourth of an acre: Mark Island, containing ten aeres; the six last mentioned Islands situated north of the Isle of Holt; Island marked F, near Deer Island thoroughfare, containing ten aeres; Island marked N, west of the Isle of Holt, containing twenty aeres; Island marked B, south of the Isle of Holt, containing seven acres; Easton's Island, containing twelve acres; and Tent Island, containing six and an half acres; each situated southwest of Little Deer Island; Partridge Island, between Little Deer Island and Tent Island, containing seven acres; Island marked D, containing twelve acres and three-fourths of an acre; Island marked F, containing sixty-two and an half acres; Harbour Island, containing forty-two acres and three-fourths of an acre: Black Island, containing ninety-two and three-fourths of an acre; Island B, containing twenty-eight acres; each of the five last mentioned Islands situated in Egamoggin Reach; Diana's Island, southwest of Little Deer Island, containing seven acres; Burnt Island, off the mouth of George's River, containing two hundred and twenty acres; Green Island, containing ten acres, near

the south end of Matinic; Matinic, containing seven hundred and forty-four acres; Noman's Land Island, northeast of Matinic about a mile, containing twenty acres; Ten Pound Island, near Matinic, containing twenty acres; Wheaton's Island, joined to Matinic by a bar, containing ten acres; Seal Island, near Matinic, containing sixty-five acres. And we do adjudge that the said right, title and interest so assigned and divided to the said Commonwealth and said State respectively are, considering the situation and quality, equal the one to the other.

To have and to hold to the Commonwealth of Massachusetts, and their assigns, the lands above allotted to them in severalty; and to the State of Maine, and their assigns, the lands above allotted to them in severalty. And it is expressly agreed that the lands so divided and allotted as aforesaid, are to be taken as they now are, without any allowance for any mistake, former conveyance, or defect of title whatever, and that there shall be no claim of either upon the other for or on account of any irregularity in said division, from any cause whatever.

In witness whereof, we the said Commissioners, have to these presents interchangeably set our hands and seals, this twenty-eighth day of December, in the year of our Lord one thousand eight hundred and twenty-two.

|                  |       |
|------------------|-------|
| LEVI LINCOLN,    | L. S. |
| JAMES BRIDGE,    | L. S. |
| GEORGE BLISS,    | L. S. |
| BENJ. J. PORTER, | L. S. |
| SILAS HOLMAN,    | L. S. |
| DANIEL ROSE.     | L. S. |

*Attest, JAMES L. CHILD, Secretary.*

## CXXXIV.

CESSION OF LANDS TO THE STATE OF MAINE FOR  
SUPPORT OF THE INDIANS, BY COMMISSIONERS  
UNDER THE ACT OF SEPARATION.

DECEMBER 28, 1822.

*Sources.*

Another act of the commissioners, December 28, 1822, was the cession of lands within the State of Maine to the value of thirty thousand dollars for support of the Indians, in accordance with Article V., section 1, of the Act of Separation.

The cession was printed with "Resolves of the Third Legislature of the State of Maine" (Portland, 1823), Appendix, 278-280, which is the text adopted.

*Text.*

WHEREAS, in and by a certain act of the Commonwealth of Massachusetts, passed the nineteenth day of June, in the year of our Lord, one thousand eight hundred nineteen, entitled "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State;" it was among other things, provided that the lands in the said District belonging to said Commonwealth, should be divided in severalty, one moiety to the said Commonwealth, and the other moiety to the State, to be formed within the said District, by Commissioners to be appointed as is in and by the said act provided. And whereas, pursuant to said provision in part execution thereof, the Commissioners appointed in conformity to said act, have divided to the said Commonwealth, certain tracts and parcels of land to be holden by said Commonwealth in severalty, as particularly described

in and by a certain instrument by them subscribed, bearing date the twenty-eighth day of December, in the year of our Lord one thousand eight hundred and twenty-two. And whereas, in and by said act, it was among other things further provided that the said commission should set off by metes and bounds, so much of any part of the land within the District aforesaid, falling to the said Commonwealth in the division of the public lands to them to be made, as in their estimation should be of the value of thirty thousand dollars, as an indemnification to the said new State, for assuming and performing all the duties and obligations of the said Commonwealth towards the Indians in said District : These presents witness, that we, Levi Lincoln, James Bridge, George Bliss, Benjamin J. Porter, Silas Holman and Daniel Rose, Esquires, Commissioners appointed according to the provisions of said act, have set off, and do hereby set off, by metes and bounds, the following tracts or parcels of land falling to the said Commonwealth in the said division, to wit : River township number three, in the third range, township number six, third range, township number seven, third range, township number eight, third range, township number nine, third range, township number ten, third range, township number eleven, third range ; River township number four, belonging to the fourth range, township number six, fourth range, township number seven, fourth range, township number eight, fourth range, township number nine, fourth range ; all said townships lying east of the Penobscot river. Township number two, in the ninth range, township number three, ninth range, and that part of township number two, in the seventh range, not heretofore granted ; these three last townships lying west of said Penobscot River, and north of the Waldo Patent ; also township number one in the seventh range, half township number six, in the ninth range, township number two,

in the eighth range, and township number four in the eighth range; all said townships lying west of the Penobscot River, containing in the aggregate of all the lands so set off as aforesaid, three hundred and ninety-five thousand nine hundred and seventy-six acres, as said townships are laid down and delineated on a plan made by Silas Holman and Daniel Rose, Esquires, dated December the twenty-sixth, in the year of our Lord one thousand eight hundred and twenty-two, and are particularly described in a report of the said Holman and Rose, made to the Commissioners, bearing date December 19th, 1822, accompanying which report is a schedule of the several surveys of the lines and boundaries made by order of the said Commonwealth, and by order of said Commissioners, to which reference is to be had; and the said Commissioners do set off the said lands by the metes and bounds of said townships as delineated upon the plan, and described in the report of said Holman and Rose, and do estimate the same to be of the value of thirty thousand dollars.

In testimony whereof, we the said Commissioners, have to this instrument set our hands and seals this twenty-eighth day of December, in the year of our Lord one thousand eight hundred and twenty-two.

LEVI LINCOLN, (L. S.)

JAMES BRIDGE, (L. S.)

GEORGE BLISS, (L. S.)

BENJ. J. PORTER, (L. S.)

SILAS HOLMAN, (L. S.)

DANIEL ROSE. (L. S.)

## CXXXV.

## REPORT ON LOCATION OF THE SEAT OF GOVERNMENT, BY A COMMITTEE APPOINTED BY THE LEGISLATURE.

JANUARY [13], 1823.

*Sources.*

The report of the committee appointed according to a resolve of the legislature, February 9, 1822, on the location of a permanent seat of government was presented in favor of Augusta; in 1828 the committee on the location of public buildings made choice of Weston's Hill, or "Capitol Hill;" and in 1829 they adopted the Bulfinch plans for a building similar to the State House in Massachusetts, although on a somewhat reduced scale.

In the history of the State the importance of the public lands is shown by a study of the earlier legislative documents. Although for the erection of the Capitol public lands were appropriated, in 1830, however, rather than to make a further appropriation, the governor in his annual message urged a loan of \$25,000 to complete the building.

The report of the committee on the location of the seat of government was printed with "Resolves of the Third Legislature of the State of Maine" (Portland, 1823), Appendix. 288, 289, which is the text adopted.

*Text.*

*To the Senate and House of Representatives of the State of Maine:*

The Committee appointed in pursuance of a Resolve of this State, of the 8th day of February, 1822, authorizing and directing them "to visit such towns as they might deem proper, and designate some central and suitable place at which the seat of Government may be permanently fixed

and established ; to ascertain the terms upon which a convenient lot for the accommodation of the State can be obtained ; and the time when it will be proper for the Legislature to meet at the place thus to be designated ;" ask leave to REPORT :—

That they have attended to the duty assigned them. That they might be enabled more correctly to determine upon the place, which in their opinion would be the most central and suitable for a permanent establishment of the Seat of Government ; and ascertain the terms upon which a convenient lot for the accommodation of the State might be obtained ; they have visited the following towns, viz : Portland, Brunswick, Hallowell, Augusta, Waterville, Belfast and Wiscasset. In each of those towns, (following the directions of the before mentioned Resolve,) they were received by the respectable inhabitants with the most gratifying politeness ; and in each of those towns a choice of very valuable lots are freely offered to the acceptance of the State for the purposes proposed ; each of which lots (in the opinion of the committee) is capable of affording not only a convenient, but a very eligible site, for the erection and accommodation of all necessary public buildings. It cannot be necessary, nor perhaps is it expedient, that the committee should report in detail, all the arguments suggested, by situation and circumstances, which have been offered and urged upon the committee in favor of any one of the before mentioned towns, in preference to any other of them, or to any other place. It may be sufficient to observe, that the committee have endeavored to give every consideration its due weight. They are satisfied, that should it be thought most expedient to establish the Seat of Government in any town upon the sea board, Wiscasset is entitled to a decided preference on account of its more central situation, the facility with which it might be defended, in case of an invasion, and the safe

and easy access to it by water, at all seasons of the year. Should it be thought most expedient that the Seat of Government be permanently established at some convenient place in the interior, the committee are unanimously of opinion that the site in Augusta, delineated upon a plan marked No. 1, accompanying the proposals offered by the inhabitants of said town, and subscribed by a committee appointed for that purpose, is the most central and suitable place, at which the Seat of Government may be permanently fixed and established. And the committee do respectfully report, That the town of Augusta, in the county of Kennebec, be the place at which the Seat of Government may be permanently fixed and established. And it will be proper for the Legislature to meet at that place, on the first Wednesday of January, which will be in the year of our Lord one thousand eight hundred and *thirty*<sup>1</sup>.

All of which is respectfully submitted by

DANIEL ROSE,  
BENJAMIN GREENE, } *Committee.*

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## CXXXVI.

### FURTHER DIVISION OF THE PUBLIC LANDS, BY COMMISSIONERS UNDER THE ACT OF SEPARATION.

MAY 21, 1833.

#### *Sources.*

The commissioners under the Act of Separation made another division of the public lands, May 21, 1833, having regard, as before, "to quantity, situation, and quality."

<sup>1</sup> This Report was amended in the Senate by striking out the words "*twenty-seven*" and inserting "*thirty*," and accepted, as amended, by both Houses of the Legislature.

The report was printed with "Resolves of the Fourth Legislature of the State of Maine" (Portland, 1824), Appendix, 364-369, which is the source adopted for this reprint.

*Text.*

Whereas, in and by a certain act of the Commonwealth of Massachusetts, passed the nineteenth day of June, in the year of our Lord, one thousand eight hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," it was among other things, enacted that all the lands belonging to the Commonwealth within the District of Maine, should belong the one half thereof to the State to be formed within the said District, to be divided by Commissioners to be appointed, as in and by the same act, was provided, between the respective States in equal shares or moieties in severalty, having regard to quantity, situation, and quality.

Now therefore, know all men by these presents, that we, Levi Lincoln, James Bridge, George Bliss, Benjamin J. Porter, Silas Holman, and Daniel Rose, Esquires, Commissioners, appointed according to the provisions of the aforesaid act, in part execution of the powers vested in us by virtue of said act, have divided, assigned, and set out in severalty, the following tracts and parcels of land to the Commonwealth of Massachusetts and to the State of Maine respectively, in severalty — to wit: to the Commonwealth of Massachusetts, the following townships and parts of townships lying between William Bingham's Kennebec purchase and New-Hampshire line, surveyed by Ephraim Ballard and Lemuel Perham, in the year 1794, for a particular description of them reference being had to their field books and a map in the land-office of the Commonwealth aforesaid, and under their hands, containing a plan of twenty-two

townships; and the numbers and ranges of townships are designated on Greenleaf's map of the State of Maine, to wit: township number four in the first range containing twenty-four thousand four hundred and eighty acres; number four in the second range containing twenty-three thousand and forty acres; also the north part of township number one, in the fourth range which has not been conveyed to Bath Academy, containing eleven thousand five hundred and twenty acres; number two in the fourth range, containing twenty-three thousand and forty acres; also the following townships surveyed by said Ephraim Ballard and Phillip Bullen, in the year 1796, for a particular description whereof reference is to be had to the field books and a plan signed by them in said land office; and for the number and ranges of townships reference is also to be had to said Greenleaf's map, to wit: township number one in the fifth range of townships, containing twenty two thousand and eighty acres; number four in the said fifth range, containing twenty three thousand and forty acres; number three in the sixth range, containing twenty six thousand eight hundred and eighty acres; number four in the sixth range, containing twenty nine thousand five hundred and eighty acres. Also the following townships surveyed by John Neal and Thomas McKechnie, in the year 1811, and by said Neal in 1812, for a description thereof, reference being had to their field books and a map in the land office of said Commonwealth, signed by said John Neal and reference for the number of the townships and for the ranges of them is to be had to Greenleaf's said map and said Neal's plan aforesaid; number one in the seventh range of said townships containing twenty thousand two hundred acres; number two in the same last mentioned range containing twenty thousand and two hundred acres; the numbers of the townships where they vary are to be taken according to said

maps and not according to the field books. The whole of the above lying between said Bingham's purchase and New-Hampshire line. Also the following townships lying north of said Bingham's Kennebec million acre purchase so called, reference for the numbers and ranges of the townships to be had to said Neal's plan and said Greenleaf's map aforesaid, viz.: number three in the second range containing twenty three thousand and forty acres; number three in the third range containing twenty-three thousand and forty acres; number three in the fourth range containing twenty three thousand and forty acres; number three in the fifth range, containing twenty-three thousand and forty acres; number four in the second range, containing twenty three thousand and forty acres; number five in the first range, containing twenty three thousand and forty acres; number six in the third range, containing twenty three thousand and forty acres; number five in the second range, containing twenty three thousand and forty acres. Also township number nine, situated in the County of Washington, and delineated on the plan of a survey of ten townships of land made by Alexander Greenwood and Roland Holden, in the year 1811, lying on the St. Johns road so called, containing twenty three thousand and forty acres. Also three hundred acres of land in the town of Orland; three hundred acres of land in the towns of Penobscot and Castine, and three hundred acres of land in the town of Surry; making in the whole of the three last mentioned parcels nine hundred acres, reserved for the future appropriation of the Commonwealth. Also all the right which the said Commonwealth and State have in the following lots lying in the town of Hermon, formerly number two in the second range, north of the Waldo patent, to wit: number one, number two, number three, number four, number six, number nine, number eleven, number seventeen, number twenty one,

each containing one hundred acres, according to Salem Town's return of Andrew Strong's plan and survey, dated October 30, 1804, now in the said land office. Also all the right of the said Commonwealth and State, to the following lots in the town of Hampden, to wit: lot number one, lot number thirty six, lot number thirty seven, lot number thirty eight, lot number forty three, lot number ninety six, lot number one hundred and four, lot number one hundred and sixty, lot number one hundred and sixty six, each containing one hundred acres according to Ephraim Ballard's plan of a survey made in May and June 1796, and Park Holland's return thereof, dated September 12th, 1803, in the land office. Three hundred acres of the above last mentioned lots having been paid for, as we have understood by the respective settlers thereon, but it cannot now be ascertained which of said lots have been paid for: Also all the right of the said Commonwealth and State to the following lots in the town of Newburgh, formerly township number two in the first range, north of the Waldo patent, to wit: number four, number seven, number eight, number ten, number fourteen, number thirty two, and number forty; each containing one hundred acres, according to Salem Town's survey and plan, dated March 5th, 1804, in said land office. The said lots in the said three last mentioned towns to be subject to the claims or rights which any person or persons, may have to them, and the said Commonwealth to perform all that the said Commonwealth would have been holden to perform, had not said act of separation passed. Also all the right which the said Commonwealth and State have in and unto a lot of land in Brownfield, contracted to be sold to Joseph Howard, Oct. 13th, 1819, together with all the right and title to the contract of said Howard, and the money thereby secured to be paid; and the said Commonwealth would have been holden to perform had not the said

act of separation passed. Also all the right of the said Commonwealth and the said State, in and to Trafton Island and Gourd Island, lying in Narraguagus Bay, contracted to be sold to James Campbell, by contract, bearing date June 22d, 1819, together with all the right to the contract of said Campbell, and the money thereby secured to be paid, and the said Commonwealth to perform whatever the said Commonwealth would have been holden to perform had not said act of separation passed.

And to the State of Maine the following townships and parts of townships lying between William Bingham's Kennebec purchase, so called, and New-Hampshire line, surveyed by Ephraim Ballard and Lemuel Perham, in the year 1794, for a particular desription of them reference being had to their field books, and a map containing a plan of twenty two townships under their hands, in the land office of the said Commonwealth; and the numbers of the townships and ranges are also designated on Greenleaf's map of the State of Maine, to wit: townships number five in the first range, containing thirty one thousand seven hundred and eighty acres; number one in the second range, containing twenty three thousand and forty acres; also the south half part of township number one in the third range, containing nine thousand four hundred and eighty acres; number three in the fourth range, containing twenty three thousand and forty acres. Also the following townships and parts of townships surveyed by said Ephraim Ballard and Phillip Bullen, in the year 1796, for a particular desription of them, reference to be had to the field books, and a plan signed by them remaining in said land office; and for the numbers and ranges of townships, reference is also to be had to Greenleaf's aforesaid map, to wit: township number two in the fifth range, containing twenty three thousand and forty acres; number three in the fifth range, containing

twenty three thousand and forty acres ; also part of number five in the fifth range, not sold or granted, containing three thousand five hundred and twenty eight acres ; number one in the sixth range, containing twenty five thousand nine hundred acres ; number two in the sixth range, containing twenty six thousand eight hundred acres. Also the following township, surveyed by John Neal and Thomas McKechnie, in the year 1811, and by said Neal in 1812, lying northwesterly of said Bingham's purchase, for a description thereof, reference to be had to their field books and a map, signed by said John Neal, in said land office ; the numbers and ranges of townships to be regulated by said map, and also Greenleaf's map of said State, and not by the numbers mentioned on their field books, to wit : township number one in the eighth range, containing twenty three thousand and forty acres ; and number two in the eighth range, containing twenty thousand and two hundred acres. Also the following townships lying north of Bingham's Kennebec million acre purchase, so called, reference for the numbers and ranges of the townships to be had to said Neal's plan, and said Greenleaf's map aforesaid, to wit : number four in the first range, containing twenty three thousand and forty acres ; number four in the third range, containing twenty three thousand and forty acres ; number four in the fourth range, containing twenty three thousand and forty acres ; number four in the fifth range, containing twenty three thousand and forty acres ; number three in the first range, containing twenty three thousand and forty acres ; number six in the first range, containing twenty three thousand and forty acres ; number six in the second range, containing twenty three thousand and forty acres ; also number ten, situated in the county of Washington, and delineated on the said Greenwood and Holden's plan aforesaid, lying on the said St. John's road, containing twenty

five thousand seven hundred and thirty two acres; also half township number eleven, situated in the county of Washington, and delineated on said Greenwood and Holden's said plan, containing eleven thousand five hundred and twenty acres; also three hundred acres in the town of Bucksport; three hundred acres in the town of Bluehill, and three hundred acres in the town of Sedgwick, making in the whole of the three last mentioned lots, nine hundred acres, which were reserved for the future appropriation of the Commonwealth; also all the right which the said Commonwealth and State now have in the following lots in the town of Bangor, to wit: numbers thirty six, forty, fifty seven, eighty five, ninety three, one hundred and one, one hundred and four, each containing one hundred acres, as delineated on a plan and survey, made by Park Holland, dated November 30th, 1801, now in said land office; also twenty one acres and seventy one rods of land in the town of Sanford, in the county of York, as delineated on John Hanson's plan in the said land office, returned by Lothrop Lewis in February, 1808. The whole of the said lots to be subject to the claims which any person or persons may have to them, and the said State to perform all that the said Commonwealth would have been holden to perform had not said act of separation passed; also a tract of land between the towns of Raymond and Standish, in the county of York, [Cumberland] containing eight hundred & forty acres, according to a plan in the said land office signed by Lothrop Lewis, and dated January 10th, 1808; also two lots on Iron-bound Island, in Frenchman's Bay, in the possession of George Chiscut and Barnabas Young, containing two hundred acres; also all the right which the said Commonwealth and said State have to the following lots of land in the town of Penobscot, as delineated and described on a plan of part of said town, signed by Lothrop Lewis,

Surveyor General, in said land office, dated March 4th, 1820, being lands upon which certain awards were made by the Commissioners of the land office, bearing date March 6th, 1820, to wit: seventy four acres, part of lot number fifty five; ten acres, part of lot number sixty four, and ten acres, part of number sixty five; eighty acres, part of lot number sixty six; one hundred forty six acres, part of lot number sixty nine; eighty acres part of lot number seventy ; eighty acres, part of lot number seventy four; also sixty eight acres, part of lot number seventy six, not heretofore assigned to said Commonwealth; also lot number eighty, containing one hundred and sixty acres; lot number eighty five containing one hundred and sixty acres; also eighty acres, part of lot number eighty three; the said State to take the same lots in Penobscot, subject to the right which any person or persons may have thereto under said awards and to do and perform all things which the said Commonwealth would have been holden to do and perform, had not said act of separation passed; reference is to be had to the said award of said Commissioners, now in the land office for a description of the title to said parts of lots aforesaid: and whereas there are certain lots in said town of Hermon, which were paid for according to the Resolves passed by said Commonwealth before the act of separation took effect, we assign the same to said Commonwealth in order that such conveyance may be made thereof as would have been made, had not said act been passed.

And we do adjudge that the said right, title and interest so assigned and divided to the said Commonwealth and the said State, respectively, are, considering the situation and quality, equal the one to the other. To have and to hold to the Commonwealth of Massachusetts and their assigns, the lands above allotted to them, in severalty. And it is expressly agreed that the lands so divided and allotted, as

aforesaid, are to be taken as they now are without any allowance for any mistake, former conveyance or defect of title whatever; and that there shall be no claim of either upon the other for or on account of any irregularity in said division from any cause whatever.

In witness whereof, we, the said Commissioners have, to these presents, interchangeably set our hands and seals, this twenty first day of May in the year of our Lord one thousand eight hundred and twenty three.

|                   |         |
|-------------------|---------|
| LEVI LINCOLN,     | (SEAL.) |
| JAMES BRIDGE,     | (SEAL.) |
| GEORGE BLISS,     | (SEAL.) |
| BENJA. J. PORTER, | (SEAL.) |
| SILAS HOLMAN,     | (SEAL.) |
| DANIEL ROSE.      | (SEAL.) |

ATTEST — JAMES L. CHILD, *Secretary.*

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### CXXXVII.

#### FURTHER DIVISION OF THE PUBLIC LANDS, BY COMMISSIONERS UNDER THE ACT OF SEPARATION.

DECEMBER 31, 1825.

##### *Sources.*

According to surveys which had been made during the year 1825, the commissioners under the Act of Separation made a further division, December 31, 1825, of the public lands belonging in common to Maine and Massachusetts.

The division of 1825 was printed with "Resolves of the Sixth Legislature of the State of Maine" (Portland, 1826) Appendix, 525-528, which is the text adopted.

*Text.*

We George Bliss, Charles Turner, Silas Holman, Benjamin J. Porter, Reuel Williams and Daniel Rose, appointed Commissioners, pursuant to a certain Act of the Commonwealth of Massachusetts, passed the nineteenth day of June in the year of our Lord eighteen hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts proper and forming the same into a separate and independent State," to divide all the public lands belonging to the said Commonwealth in the District of Maine, the one half thereof to the said Commonwealth, and the other half thereof to the State of Maine in equal shares or moieties in severalty, having regard to quantity, situation and quality, in part execution of the powers vested in us by virtue of said Act, have divided, assigned and set out in severalty to the said Commonwealth and State respectively, the following tracts and parcels of land, within said State of Maine, to wit: to the said Commonwealth of Massachusetts, in the first range of townships on the eastern line of said state as surveyed the current year by Joseph Norris, and laid down upon his plan thereof, dated December 22nd, 1825, certified by the Commissioners, to wit, part township marked B. containing eleven thousand five hundred and twenty acres,—township marked C. containing twenty three thousand and forty acres,—and township F. containing twenty three thousand and forty acres, and in the second range of townships according to the same survey and plan, part township A. containing fifteen thousand three hundred and sixty acres, township B. containing twenty three thousand and forty acres, township C. containing twenty three thousand and forty acres, township G. containing twenty three thousand six hundred and seventy six acres, and township I. containing twenty three thousand and forty acres. And in the tract lying south of

a line run due west from the Monument at the source of the St. Croix, surveyed the current year by Joseph C. Norris and Andrew McMillan, and laid down upon their plan, dated December 22nd, 1825, and certified by the Commissioners, to wit, township numbered one in the third range of townships west of said Monument, containing thirty three thousand five hundred and sixty nine acres, and township numbered two in the same range, containing twenty two thousand eight hundred and eighty six acres, township numbered two in the fourth range of townships west of said Monument, containing twenty three thousand six hundred and ten acres — township numbered one in the fifth range of townships west of said Monument, containing forty four thousand nine hundred and eighty nine acres — township numbered two in the same range, containing twenty two thousand seven hundred and sixteen acres, and township numbered three in the same range, containing twenty two thousand one hundred and eighty eight acres — township numbered two in the seventh range of townships west of said Monument containing twenty three thousand three hundred and seventy seven acres, and all that part of township marked A. in said seventh range, which lies east of the Indian townships, and east of the west line of said seventh range, except the part lying southerly and easterly of said Indian townships, encircled by a dotted line on said plan, said to have been recently located by General Herrick for the trustees of Hopkins' Academy, containing, exclusive of said reservation, twenty thousand nine hundred and thirty four acres. And a tract of land east of said Norris' and McMillan's survey, north of the fourth range of townships, east of Penobscot River, and west of Schoodic Bay, bounded thus: Beginning in the north line of township numbered eight in the fourth range of townships north of the Bingham purchase, east of Penobscot River, and in the east line of township numbered one, in the third range of

townships west of the Monument; thence running due north fourteen miles to the main branch of Mattawamkeag, thence eastwardly by the Mattawamkeag to the west line of township numbered nine, which township is near to Schoodic lake, thence southwardly by the west line of said township numbered nine, to the southwest corner thereof, thence eastwardly on the south line of said township, numbered nine, and on that line continued to the lake, thence southwardly by the lake to the north line of said fourth range of townships, and thence westwardly on that line to the bound first mentioned (saving and excepting the half township located for Hampden Academy) containing, exclusive of said reservation, about forty two thousand acres, and making the whole quantity of land hereby assigned to said Commonwealth of Massachusetts to be four hundred and twenty two thousand and twenty five acres. And to the said State of Maine in the first range of townships on the eastern line of said State as surveyed the current year by Joseph Norris, and laid down upon his plan thereof, dated December 22nd, 1825, and certified by the Commissioners; to wit, township A. containing twenty three thousand and forty acres — township D. containing twenty three thousand six-hundred and seventy six acres — township E. containing twenty three thousand and forty acres — and in the second range of townships, according to the same survey and plan — township D. containing twenty two thousand four hundred and seventy seven acres — part township E. containing twelve thousand six hundred and twenty two acres — township F. containing twenty three thousand and forty acres — part township H. containing fourteen thousand six hundred and thirty three acres — and township K. containing twenty three thousand and forty acres — and in the tract lying south of line run due west from the Monument at the source of the St. Croix, surveyed the current year by Joseph C. Norris and Andrew McMillan,

and represented on their plan dated December 22nd, 1825, certified by the Commissioners, to wit, the west half part of township numbered three in the third range of townships west of said Monument, containing eleven thousand three hundred and forty four acres — township numbered one in the fourth range of townships west of said Monument, containing thirty nine thousand five hundred and twelve acres — township numbered three, in the same range, containing twenty three thousand one hundred and sixty three acres — township marked A. in the sixth range of townships west of said Monument, containing twenty two thousand nine hundred and twenty four acres — township numbered one in the same range, containing twenty three thousand and two acres — township numbered two in the same range, containing twenty-four thousand and eighty three acres — township numbered three in the same range, containing twenty four thousand twenty acres — township numbered one in the seventh range of townships west of said Monument, containing twenty one thousand five hundred and seventeen acres — and township numbered three in the same range, containing twenty three thousand two hundred and fifty five acres, and a tract of land adjoining to the aforesaid township A. in the sixth range, and bounded northwardly thereon, eastwardly by Penobscot River, and the west line of township numbered one in the fifth range — southwardly by the north line of the Indian township as located by Joseph Treat, and westwardly by the west line of said Indian township, continued northwardly to said township A. containing two thousand and one hundred acres, and is marked Z. with red ink upon said Norris' and McMillan's plan, and a tract of land lying south of the line running due west from the Monument, and east of Norris' and McMillan's survey, bounded as follows: Beginning on the west line of township numbered ten, adjoining Schoodic River, in the line run due west from the Monument — thence

due west six miles to the east line of the third range of townships west of the Monument — thence due south five miles, and two hundred and thirty two rods to the main branch of Mattawamkeag — thence eastwardly by that branch to the west line of township numbered nine — thence northwardly by the west line of that township to the north west corner thereof — thence eastwardly in the north line of the same township to the west line of said township numbered ten — and thence northwardly by said township numbered ten, to the bound first mentioned, and all the land lying south of said township numbered ten, east of said township numbered nine, west of Schoodic lake and river, and north of the south line of said township numbered nine, continued eastwardly to said lake, both tracts containing about forty thousand acres, and making the whole quantity of land hereby assigned to the State of Maine to be four hundred and twenty thousand four hundred and eighty eight acres. And we do adjudge that the said lands so assigned and divided to the said Commonwealth and to the said State respectively, considering the situation and quality are equal, the one to the other.

To have and to hold to the Commonwealth of Massachusetts and to their assigns forever, the lands above allotted and divided to them, and to the State of Maine and to their assigns forever, the lands above allotted and assigned to them in severalty.

And it is expressly agreed that the lands so divided, allotted and assigned, are to be taken without allowance for any mistake, former conveyance or defect of title whatever, and that no claim of one State upon the other shall be made on account of any inequality in said division from any cause whatever.

IN WITNESS WHEREOF the said Commissioners hereunto interchangeably set their hands, and have caused this instrument of division to be recorded this thirty first day of

December, in the year of our Lord one thousand eight hundred and twenty five.

GEORGE BLISS,  
BENJAMIN J. PORTER,  
CHARLES TURNER,  
REUEL WILLIAMS,  
SILAS HOLMAN,  
DANIEL ROSE.

Attest, JAMES L. CHILD, *Secretary.*

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### CXXXVIII.

#### FURTHER DIVISION OF THE PUBLIC LANDS, BY COMMISSIONERS UNDER THE ACT OF SEPARATION.

DECEMBER 28, 1826.

##### *Sources.*

In accordance with the survey made during the year 1826 the commissioners under the Act of Separation made a still further division of the public lands held in common by the two states. June 20, 1826, the general court of Massachusetts appropriated a "contingent fund" to compensate commissioners according to certain stipulations in the Act of Separation.

The text adopted for the "Doings of the Commissioners" is the report which was printed with "Resolves of the Seventh Legislature of the State of Maine" (Portland, 1827), Appendix, 605-607.

##### *Text.*

We, Charles Turner, Silas Holman, Benjamin J. Porter, Reuel Williams, and Daniel Rose, appointed Commissioners, pursuant to a certain act of the Commonwealth of Massachusetts, passed the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled, "An Act relating to the separation of the District of Maine

from Massachusetts Proper and forming the same into a separate and independent State," to divide all the public lands belonging to the said Commonwealth, in the District of Maine, the one half thereof to the said Commonwealth, and the other half thereof to the State of Maine, in equal shares or moieties in severalty, having regard to quantity, situation, and quality," in part execution of the powers vested in us by virtue of said act, have divided, assigned and set out in severalty to said Commonwealth and State respectively the following townships and parcels of land within said State of Maine, in the third, fourth, fifth, sixth and seventh ranges of townships west of the monument, erected at the source of the St. Croix as the boundary between the United States and the Province of New-Brunswick, as surveyed the current year by Joseph Norris and Joseph C. Norris, and laid down upon their plan thereof, dated December 1826, and certified by the Commissioners, to wit, to the said Commonwealth of Massachusetts in the third range of townships, all that part of township numbered four, lying south of a line drawn east and west through the same at the distance of three miles and an half from the south line of said township, containing thirteen thousand four hundred and forty acres, and townships numbered five, seven, nine, eleven, and thirteen, containing twenty three thousand and forty acres each, and township numbered fifteen, containing twenty-two thousand and thirty-two acres — in the fourth range of townships, townships numbered four, six, eight, ten, twelve, fourteen, and sixteen, each containing twenty-three thousand and forty acres — in the fifth range of townships, townships numbered five, seven, nine, eleven, thirteen, and fifteen, each containing twenty-three thousand and forty acres,— in the sixth range of townships, townships numbered four, six, eight, ten, twelve, fourteen, and sixteen, each township containing twenty-three thousand and forty acres, and the west line of said

township numbered eight to be a straight line running south from the southwest corner of township numbered ten in the sixth range to the northwest corner of township numbered six in said sixth range in the place where the dotted line is made upon the plan, and not the line made by the Surveyors upon the earth and represented by the black line upon the plan — in the seventh range of townships, townships numbered five, seven, nine, eleven, thirteen, and fifteen, each township containing twenty-three thousand and forty acres, and making the whole quantity of land hereby assigned to said Commonwealth of Massachusetts to be seven hundred forty-nine thousand and twelve acres.

And to the said State of Maine, in the third range of townships, all that part of township numbered four which lays north of a line to be drawn east and west through the same, at the distance of three miles and a half from the south line of said township containing nine thousand six hundred acres, and townships numbered six, eight, ten, twelve and fourteen, each containing twenty-three thousand and forty acres, and township numbered sixteen containing twenty-one thousand and thirty-six acres — in the fourth range of townships, townships numbered five, seven, nine, eleven, thirteen, and fifteen, each containing twenty-three thousand and forty acres — in the fifth range of townships, townships numbered four, six, eight, ten, twelve, fourteen and sixteen, each containing twenty-three thousand and forty acres — in the sixth range of townships, townships numbered five, seven, nine, eleven, thirteen and fifteen, each containing twenty-three thousand and forty acres — the west line of said townships numbered seven and nine to be a straight line running north from the northwest corner of township numbered six in the sixth range to the south west corner of township numbered ten in the sixth range in the place where the dotted line is made upon the plan and

not the line made by the Surveyors upon the earth as represented by the black line upon the plan — in the seventh range of townships numbered four, six, eight, ten, twelve, fourteen and sixteen, each containing twenty-three thousand and forty acres, and making the whole quantity of land hereby assigned to said State of Maine to be seven hundred forty-four thousand, eight hundred and seventy-six acres. And we do adjudge that the said lands hereby divided and assigned to the said Commonwealth and to the said State of Maine respectively, considering their situation and quality are equal, the one to the other.

To have and to hold to the Commonwealth of Massachusetts and to their assigns forever, the lands above allotted and divided to them, and to the State of Maine and to their assigns forever the lands above allotted and assigned to them, in severalty — and it is expressly agreed that the lands so divided, allotted and assigned, are to be taken without allowance for any mistake, former conveyance or defect of title whatever, and that no claim of one State upon the other shall be made on account of any inequality in said division from any cause whatever.

IN WITNESS WHEREOF, the said Commissioners have hereunto interchangeably set their hands and have caused this instrument of Division to be recorded this twenty eighth day of December, in the year of our Lord, one thousand eight hundred and twenty-six.

BENJA. J. PORTER,  
CHARLES TURNER,  
REUEL WILLIAMS,  
SILAS HOLMAN,  
DANIEL ROSE.

Attest: JAMES L. CHILD, *Secretary.*

## CXXXIX.

## CONVENTION FOR THE SETTLEMENT OF BOUNDARIES, BETWEEN THE UNITED STATES AND GREAT BRITAIN.

SEPTEMBER 29, 1827.

*Sources.*

By the convention between the United States and Great Britain, done at London, September 29, 1827, it was agreed, through the plenipotentiaries of the two powers, that points of difference between the commissioners appointed according to the fifth article of the treaty of Ghent should be referred to some friendly sovereign or state. One result of the convention is the collection of documents in a "Statement on the Part of the United States, of the Case referred, in pursuance of the Convention of 1827 . . ." (printed but not published, Washington, 1829). The convention is in the "Statement," Appendix I., 32-34; "American Annual Register" (New York, 1828), Appendix, 16, 17; "British and Foreign State Papers" (London, 1828), XIV., 1,004-1,008; "House Executive Documents," 19 Cong. 2 sess., No. 53, 6-8; "American State Papers, Foreign Relations" (Washington, 1859), VI., 1,000-1,003; "Statutes at Large of the United States of America" (Boston, 1846), VIII., 362-365; by John H. Haswell, compiler, "Treaties and Conventions concluded between the United States of America and Other Powers since July 4, 1776" (Washington, 1889), 429-432; also by Andrew Stuart, "Succinct Account of the Treaties and Negotiations between Great Britain and the United States, relating to the Boundary Line" (London, 1838), 71-79.

The text adopted is that of the "Statutes at Large."

*Text.*

WHEREAS it is provided by the fifth article of the Treaty of Ghent, that, in case the Commissioners appointed under

that article for the settlement of the boundary line therein described, should not be able to agree upon such boundary line, the report or reports of those Commissioners, stating the points on which they had differed, should be submitted to some friendly Sovereign or State, and that the decision given by such Sovereign or State, on such points of difference, should be considered by the contracting Parties as final and conclusive: that case having now arisen, and it having, therefore, become expedient to proceed to and regulate the reference, as above described, the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, have, for that purpose, named their Plenipotentiaries, that is to say: the President of the United States has appointed Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary at the Court of His Britannick Majesty; and his said majesty, on his part, has appointed the Right Honorable Charles Grant, a member of Parliament, a member of His said Majesty's most Honorably Privy Council, and President of the Committee of the Privy Council for affairs of trade and foreign plantations, and Henry Unwin Addington, Esq. who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to, and concluded the following articles.

Art. 1. It is agreed, that the points of difference which have arisen in the settlement of the boundary between the American and British dominions, as described in the fifth article of the Treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate, and make a decision upon, such points of difference.

The two contracting Powers engage to proceed in concert, to the choice of such friendly Sovereign or State, as soon as the ratifications of this Convention shall have been

exchanged, and to use their best endeavours to obtain a decision if practicable, within two years after the Arbitrator shall have signified his consent to act as such.

Art. 2. The reports and documents thereunto annexed, of the Commissioners appointed to carry into execution the fifth article of the Treaty of Ghent, being so voluminous and complicated, as to render it improbable that any Sovereign or State should be willing to undertake the office of investigating and arbitrating upon them, it is hereby agreed to substitute for those reports, new and separate statements of the respective cases, severally drawn up by each of the contracting Parties, in such form and terms as each may think fit.

The said statements, when prepared, shall be mutually communicated to each other by the contracting Parties, that is to say: by the United States to His Britannick Majesty's Minister or Charge d' Affaires at Washington, and by Great Britain to the Minister or Charge d' Affaires of the United States at London, within fifteen months after the exchange of the ratifications of the present Convention.

After such communication shall have taken place, each Party shall have the power of drawing up a second and definitive statements, if it thinks fit so to do, in reply to the statement of the other Party, so communicated; which definitive statements shall also be mutually communicated, in the same manner as aforesaid, to each other, by the contracting Parties, within twenty-one months after the exchange of the ratifications of the present Convention.

Art. 3. Each of the contracting Parties shall, within nine months after the exchange of ratifications of this Convention, communicate to the other, in the same manner as aforesaid, all the evidence intended to be brought in support of its claim, beyond that which is contained in the reports of the Commissioners, or papers thereunto annexed, and

other written documents laid before the Commission, under the fifth article of the Treaty of Ghent.

Each of the contracting Parties shall be bound, on the application of the other Party, made within six months after the exchange of the ratifications, of this Convention, to give authentick copies of such individually specified acts of a publick nature, relating to the territory in question, intended to be laid as evidence before the Arbitrator, as have been issued under the authority, or are in the exclusive possession, of each Party.

No maps, surveys, or topographical evidence of any description, shall be adduced by either Party, beyond that which is hereinafter stipulated, nor shall any fresh evidence of any description, be adduced or adverted to, by either Party, other than that mutually communicated or applied for, as aforesaid.

Each Party shall have full power to incorporate in, or annex to, either its first or second statement, any portion of the reports of the Commissioners, or papers thereunto annexed, and other written documents laid before the Commission under the fifth article of the Treaty of Ghent, or of the other evidence mutually communicated or applied for as above provided, which it may think fit.

Art. 4. The map called Mitchell's map, by which the framers of the Treaty of 1783 are acknowledged to have regulated their joint and official proceedings, and the map A. which has been agreed on by the contracting Parties, as a delineation of the water courses, and of the boundary lines, in reference to the said water courses, as contended for by each Party respectively, and which has accordingly been signed by the above named Plenipotentiaries, at the same time with this Convention, shall be annexed to the statements of the contracting Parties, and be the only maps that shall be considered as evidence, mutually

acknowledged by the contracting Parties, of the topography of the country.

It shall, however, be lawful for either Party, to annex to its respective first statement, for the purposes of general illustration, any of the maps, surveys, or topographical delineations, which were filed with the Commissioners under the fifth article of the Treaty of Ghent, any engraved map heretofore published, and also a transcript of the above mentioned map A, or of a section thereof, in which transcript each Party may lay down the highlands, or other features of the country, as it shall think fit; the water-courses and the boundary lines, as claimed by each party, remaining as laid down in the said map A.

But this transcript, as well as all the other maps, surveys, or topographical delineations, other than the map A, and Mitchell's map, intended to be thus annexed, by either Party, to the respective statements, shall be communicated to the other Party, in the same manner as aforesaid, within nine months after the exchange of the ratifications of this Convention, and shall be subject to such objections and observations, as the other contracting Party may deem it expedient to make thereto, and shall annex to his first statement, either in the margin of such transcript, map or maps, or otherwise.

Art. 5. All the statements, papers, maps, and documents, above mentioned, and which shall have been mutually communicated as aforesaid, shall, without any addition, subtraction or alteration, whatsoever, be jointly and simultaneously delivered in to the arbitrating Sovereign or State, within two years after the exchange of ratifications of this Convention, unless the Arbiter should not, within that time, have consented to act as such; in which case all the said statements, papers, maps, and documents, shall be laid before him within six months after the time when he shall

have consented so to act. No other statements, papers, maps, or documents, shall ever be laid before the Arbitrator, except as hereinafter provided.

Art. 6. In order to facilitate the attainment of a just and sound decision on the part of the Arbitrator, it is agreed that, in case the said Arbitrator should desire further elucidation or evidence in regard to any specifick point contained in any of the said statements submitted to him, the requisition for such elucidation or evidence shall be simultaneously made to both Parties, who shall thereupon be permitted to bring further evidence, if required, and to make, each, a written reply to the specifick questions submitted by the said Arbitrator, but no further; and such evidence and replies shall be immediately communicated by each Party to the other.

And in case the Arbitrator should find the topographical evidence, laid as aforesaid before him, insufficient for the purposes of a sound and just decision, he shall have the power of ordering additional surveys to be made of any portions of the disputed boundary line or territory, as he may think fit; which surveys shall be made at the joint expence of the contracting Parties, and be considered as conclusive by them.

Art. 7. The decision of the Arbitrator, when given, shall be taken as final and conclusive; and it shall be carried, without reserve, into immediate effect, by Commissioners appointed for that purpose by the contracting Parties.

Art. 8. This Convention shall be ratified, and the ratifications shall be exchanged in nine months from the date hereof, or sooner, if possible.

In witness whereof, we, the respective Plenipotentiaries, have signed the same, and have affixed thereto the seals of our arms.

Done at London, the twenty-ninth day of September, in the year our Lord one thousand eight hundred and twenty-seven.

ALBERT GALLATIN, (L. S.)  
CHARLES GRANT, (L. S.)  
HENRY UNWIN ADDINGTON. (L. S.)

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## CXL.

FURTHER DIVISION OF THE PUBLIC LANDS  
BY COMMISSIONERS UNDER THE ACT OF  
SEPARATION.

NOVEMBER 7, 1827.

*Sources.*

The work of surveying lands held by Maine and Massachusetts in common had been carried forward during the year 1827, so that the commissioners under the Act of Separation were able to make still another division November 7, 1827.

The "Doings of the Commissioners" was printed with "Resolves of the Eighth Legislature of the State of Maine" (Portland, 1828), Appendix, 823-826, which is the text adopted.

*Text.*

We, George Bliss, Benjamin J. Porter, Charles Turner, Reuel Williams, Silas Holman and Daniel Rose, appointed Commissioners pursuant to a certain act of the Commonwealth of Massachusetts, passed the nineteenth day of June in the year of our Lord one thousand eight hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," to divide

all the public lands belonging to the Commonwealth aforesaid in the District of Maine, the one half thereof to the said Commonwealth and the other half thereof to the State of Maine in equal shares or moieties in severalty having regard to quantity, situation and quality, in part execution of the powers vested in us by virtue of said Act have divided, assigned and set out in severalty to said Commonwealth and State respectively the following townships and tracts of land and islands within said state of Maine west of the seventh range of townships west of the monument erected at the source of the St. Croix river according to the survey and plan made by Norris and M'Millan north of the ninth and tenth ranges of townships of the old surveys and of Bingham's Kennebec purchase East of Moosehead Lake; and of the ten townships surveyed by Neal and M'Kecknie, and south of the line running due west from the monument aforesaid, and of townships heretofore located for the Plymouth Company, the town of Plymouth, the town of Pittston and a line running west from the north west corner of the Pittston location to the East line of the ten townships aforesaid, as surveyed the current year by Joseph Norris and laid down upon his plan thereof dated November eighteen-hundred and twenty seven, and certified by the Commissioners, and described in the field notes and plan of said Norris, and the townships and tracts are to be ascertained by reference to the same;—to wit, to the said Commonwealth of Massachusetts in the eighth range of townships West of said monument, township numbered one containing eighteen thousand and sixty acres and townships numbered two and three each containing twenty three thousand and forty acres, the tract marked A, partly in the eighth and partly in the ninth ranges of townships containing twenty thousand fifty seven acres, in the tenth range of townships; township marked B containing seventeen thousand

four hundred and twenty four acres, township marked A, and townships numbered one, two, and three each containing twenty three thousand and forty acres, in the twelfth range of townships; township marked A containing twenty five thousand one hundred and fifty eight acres, and townships numbered one, two and three each containing twenty three thousand and forty acres; in the fourteenth range township numbered one containing twenty three thousand nine hundred forty one acres all lying Eastwardly of Lake. All that part of township numbered three in said fourteenth range northeastwardly of Moosehead Lake, which is situated west of a line to be run from the monument line commencing in the middle of Penobscot river and to run due south until it intersects the north line of the township located for the Middlesex Canal Corporation, containing twenty three thousand two hundred and thirty six acres; township or tract marked W lying on both side of the head of Moosehead Lake and south of the Plymouth Company's township containing fourteen thousand and sixty eight acres; township numbered two in the third range of townships lying west of a township located for the Middlesex Canal Corporation, containing twenty six thousand eight hundred and eighty acres, and the Westwardly part of township numbered two in the fourth range of townships lying between the East line of the ten townships and the west line of the tract located for the town of Pittston, containing eighteen thousand one hundred and sixty eight acres; the two last mentioned townships being situated West of said Moosehead Lake, also an island in said lake, between the East line of Bingham's Kennebec purchase and township A in the fourteenth range called Sugar Island, containing four thousand nine hundred and fifty acres and marked upon said Norris plan, Sugar I. together with all those parts of Lakes, Ponds, and Streams, situated

and being within the lines of any and all of the aforesaid townships and tracts divided and set out in severalty to said Commonwealth of Massachusetts except Moosehead Lake, making the whole quantity of land hereby assigned to said Commonwealth of Massachusetts to be three hundred ninety nine thousand eighty-seven acres.

And to the said State of Maine in the ninth range of townships west of said monument, township numbered one, containing twenty two thousand, one hundred and four acres, and townships numbered two and three, containing twenty three thousand and forty acres each, in the eleventh range of townships, township marked B. containing twenty six thousand seven hundred and thirty six acres — township marked A, and townships numbered one, two and three, containing twenty three thousand and forty acres each — in the thirteenth range of townships, township marked A, and townships numbered one, two and three, containing twenty three thousand and forty acres each — township marked A2, partly in the thirteenth and partly in the fourteenth ranges of townships containing seventeen thousand nine hundred and twenty five acres, in the fourteenth range of townships, township marked A, containing nineteen thousand one hundred sixty four acres — tract marked X, containing five thousand seven hundred and seventy eight acres, and all that part of township numbered three, which is situated east of a line to be run from the monument line commencing in the middle of Penobscot river, and to run due south until it intersects the north line of the township located for the Middlesex Canal Corporation, containing nineteen thousand seven hundred and eighty seven acres, all lying eastwardly of Moosehead Lake, a part of township numbered one in the first range of townships on the west side of said lake, adjoining to Taunton and Raynham Academy location, containing four thousand four hundred and

sixty five acres; part of township numbered one in the second range of townships west of said lake adjoining to Sandwich Academy location, containing four thousand seven hundred and seventy acres; township numbered one in the second range of townships west of and adjoining to said lake, containing nineteen thousand two hundred and eighty four acres; and township numbered two in the second range of townships west of said lake, containing twenty two thousand nine hundred and sixty eight acres, together with all those parts of lakes, ponds and streams, situated and being within the lines of any and all of the aforesaid townships and tracts divided and set out in severalty to said State of Maine, except the waters of Moosehead Lake. Also a tract of land near the southerly end of Moosehead lake and opposite to the Saco Free Bridge location, bounded west by the east line of Bingham's Kennebec Purchase, and on all other parts by the shore of Moosehead lake, containing five hundred thirty two acres; all that part of Moose Island in said lake which is situated east of the east line of said Bingham's Purchase, containing five hundred and fourteen acres; all that part of Deer Island in said lake which is situated east of the east line of said Bingham's Purchase, containing three hundred acres; a tract of land lying north of the north line of said Bingham's Purchase, east of Taunton and Raynham Academy location, south of part of township numbered one in the first range of townships and west of the shore of said lake, containing four hundred and seventy-five acres; an Island or Peninsula lying west of Day's Academy location, called Mount Kenio, containing one thousand one hundred and fifty acres; Farm Island, containing nine hundred and eighty acres, and all the other small islands in said Moosehead Lake, north and east of the Bingham Purchase, except Sugar Island, containing by estimation one hundred and ninety acres, making the whole quantity of land hereby

assigned to said State of Maine to be three hundred ninety seven thousand five hundred and twenty two acres.

All the townships and tracts hereby divided, which adjoin to and border upon the waters of Moosehead lake are declared and taken to be bounded by the shore of said lake.

And we do adjudge that the said lands and islands hereby divided and assigned to the said Commonwealth of Massachusetts and to the said State of Maine respectively, considering their situation and quality, are equal the one to the other.

To have and to hold to the Commonwealth of Massachusetts and to their assigns forever the lands and island above allotted and divided to them, and to the State of Maine and to their assigns forever the lands and islands above allotted and assigned to them in severalty. And it is expressly agreed that the lands and islands so divided, allotted and assigned, are to be taken without allowance for any mistake, former conveyance, or defect of title whatever, and that no claim by one State upon the other shall be made on account of any inequality in said division from any cause whatever.

IN WITNESS WHEREOF, the said Commissioners have hereunto interchangeably set their hands, and have caused this instrument of division to be recorded this seventh day of November, in the year of our Lord one thousand eight hundred and twenty seven.

GEORGE BLISS,  
BENJA. J. PORTER,  
CHARLES TURNER,  
REUEL WILLIAMS,  
SILAS HOLMAN,  
DANIEL ROSE.

Attest, JAMES L. CHILD, *Secretary.*

## CXLI.

RESOLVE IN RELATION TO AGGRESSIONS UPON THE  
NORTHEASTERN FRONTIER, BY THE EIGHTH  
LEGISLATURE OF THE STATE OF MAINE.

FEBRUARY 18, 1828.

*Sources.*

While Maine had been occupied with the work of separation from Massachusetts, the frontier had become involved in hostile relations with New Brunswick. November 9, 1827, Governor Lincoln issued a proclamation with regard to "trespassers on the sovereignty of Maine," urging forbearance and peace, "so that the preparations for preventing the removal of our landmarks, and guarding the sacred and inestimable rights of American citizens may not be embarrassed by any unauthorized acts."

February 18, 1828, the state legislature passed the resolve in relation to aggressions upon the northeastern frontier of the state, which was printed in "Documents relating to the North Eastern Boundary of the State of Maine" (Boston, 1828), 274, 275; and in "Resolves of the Eighth Legislature of the State of Maine" (Portland, 1828), 796, 797.

The text adopted is that of the printed "Documents."

*Text.*

Whereas the sovereignty of this State has been repeatedly violated by the acts of the agents and officers of the Government of the British province of New-Brunswick, and that government, by its agents and officers, has wantonly and injuriously harrassed the citizens of this State, residing on the Northeastern frontier of the same, and within its limits, by assuming to exercise jurisdiction over them, in issuing and executing civil and criminal process against them, by which their property has been seized, and some of

them arrested and conveyed out of the State, and subjected to the operation of the laws of that province; in establishing military companies within the territory of this State; imposing fines for neglect of military duty; imposing upon our said citizens an alien tax, and requiring payment of the same; and whereas, by the exercise of the aforesaid unwarranted acts of jurisdiction by the government of the said province, some of our citizens have been deprived of their liberty, their property destroyed, many of them driven from their lands and dwellings, the tranquillity and peace of all of them disturbed, and the settlement and population of that part of the State adjoining said province, greatly retarded, if not wholly prevented: therefore,

*Resolved*, That the present is a crisis, in which the government and people of this State, have good cause to look to the government of the United States for defence and protection against foreign aggression.

*Resolved further*, That if new aggressions shall be made by the government of the province of New Brunswick upon the territory of this State, and upon its citizens, and seasonable protection shall not be given by the United States, the Governor be, and he hereby is, requested to use all proper and constitutional means in his power, to protect and defend the citizens aforesaid in the enjoyment of their rights.

*Resolved further*, That, in the opinion of this Legislature, the Executive of the United States ought, without delay, to demand of the British Government the immediate restoration of John Baker, a citizen of this State, who has been seized by the officers of the Province of New Brunswick, within the territory of the State of Maine, and by them conveyed to Fredericton, in said Province, where he is now confined in prison, and to take such measures as will effect his early release.

*Resolved further*, That the Governor be, and he hereby is, authorized and requested, with the advice and consent of Council, from time to time, to extend to the family of the said John Baker, such relief as shall be deemed necessary; and he is hereby authorized to draw his warrant on the Treasury for such sum or sums as shall be required for that purpose.

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## CXLII.

EXTRACT FROM REPORT ON THE BOUNDARY LINE  
BETWEEN MAINE AND NEW HAMPSHIRE, BY  
COMMISSIONERS OF THE TWO STATES.

NOVEMBER 13, 1828.

*Sources.*

After Maine had become an independent state, a new boundary line was run between Maine and New Hampshire by commissioners appointed to make a joint survey of the common boundary. Because of inaccuracies in earlier surveys which were corrected by the new line of 1828, some of the inhabitants of border towns found themselves under the jurisdiction of New Hampshire; from Fryeburg for instance the strip colloquially known as "Fag End" was set off to Conway.

February 28, 1829, the report of the commissioners was approved by the legislature of the State of Maine, and July 1, 1829, in New Hampshire a resolve was passed by the senate and house of representatives in general court convened that the governor by proclamation should make known the course of the new boundary line established by the commissioners. The report was printed with "Resolves of the Ninth Legislature of the State of Maine" (Portland, 1829), 39-43; and by Henry Gannett, "Boundaries of the United States and of the Several States and Territories . . ." (Washington, 1885), 35-38.

The text adopted for this extract from the report is that of the printed "Resolves."

*Text.*

The Report of the Commissioners appointed by his Majesty's order in Council of February twenty second 1735, and confirmed by his order of the fifth of August 1740, having established, "That the dividing line shall pass up through the mouth of Piscataqua Harbor and up the middle of the river of Newichwannock, part of which is now called the Salmon falls, and through the middle of the same to the farthest head thereof, &c." — and, "that the dividing line shall part the Isle of *Sholes*, and run through the middle of the Harbor between the Islands to the sea on the southerly side," &c. We have not deemed it necessary to commence our survey until we arrived north, at the head of Salmon falls river; which was determined by Bryant, at his survey in 1740, to be at the outlet of Eastpond, between the town of Wakefield and Shapleigh. From that point we have surveyed and marked the line as follows, viz: We commenced at the Bryant rock, known as such by tradition, which is a rock in the middle of Salmon falls river, at the outlet of Eastpond, about six feet in length, three feet in breadth, three feet in depth and two feet under the surface of the water, as the dam was at the time of the survey, to wit, October 1, 1827, — said stone bears south seventy one degrees west, three rods and eight links from a large rock on the eastern bank marked "1827" — and bears also from a rock near the mill-dam (marked "H") north nineteen degrees and thirty minutes west, and distant twelve rods and twenty one links. At this point the variation of the needle was ascertained to be *nine degrees* west. From the above stone the line is north seven degrees and forty one minutes east, one hundred and seventy eight rods to Eastpond, and crossing the pond three hundred and eleven rods in width, to a stone Monument, which we erected upon the bank, about three and a half feet high above the surface of

the ground, marked N on the west side and M on the east side, which description applies to all the stone monuments hereinafter mentioned, unless they are otherwise particularly described: thence the same course, two hundred and twenty five rods to Fox ridge and to a stone monument, which is placed upon the north side of the road that leads from Wakefield to Shapleigh; thence two hundred rods to Balch's pond; across the pond, one hundred and three and half rods—across a peninsula thirty six rods—across a cove, fifty one rods and seventeen links, across a second peninsula, forty eight rods, across a second cove twenty seven rods ten links;—thence three hundred and seventy rods to the road leading from Newfield to Wakefield, and a stone monument erected on the north side of the same near Campernell's house; thence north six degrees and ten minutes east, five hundred and ninety rods to the line of Parsonsfield to a stone monument with additional mark “1828.” At this point the variation of the needle was found to be nine degrees fifteen minutes west; thence same course five hundred and eleven rods crossing the end of Province pond to a stone monument on the Parsonsfield road, near the house of James Andrews, also with additional mark “1828”; thence north eight degrees, and thirty eight minutes east, two hundred and eight rods to the old corner stone of Effingham, about two feet above the ground and not marked; thence north eight degrees, fifty five minutes east, two hundred and seventy seven rods to a large round stone about three feet diameter and two feet high, marked N. and M. by the road upon Towle's Hill; thence north seven degrees fifty five minutes east; six hundred and thirty one rods to a stone monument on the road leading from Parsonsfield to Effingham. At this point the variation of the needle was found to be nine degrees thirty minutes west; thence north five degrees two minutes east,

seven hundred thirty four rods to a pine stump upon a small Island in Ossipee river at the foot of the falls ; thence north ten degrees east thirty rods to a stone monument on the north side of the new road from Porter to Effingham ; thence the same course, five hundred fifty eight rods to the top of Bald Mountain ; thence same course three hundred sixteen rods to the top of Bickford Mountain ; thence same course one hundred and ninety three rods to a stone monument on the north side of the road leading from Porter to Eaton. At this point the variation of the needle was found to be nine degrees forty five minutes west ; thence north eight degrees five minutes east, seven hundred and forty four rods to Cragged Mountain ; thence same course sixty seven rods to the corner of Eaton ; thence same course, seven hundred eighty seven and an half rods to the corner of Conway ; thence same course, six hundred ten and an half rods to a stone monument on the south side of the road leading from Brownfield to Conway centre ; thence north eight degrees east, eight hundred seventy one rods to a stone monument on the side of the road leading from Fryeburg village to Conway — at this point the variation of the needle was found to be ten degrees west ; thence same course four rods to a stone monument on the north side of the same road ; thence north eight degrees fifteen minutes east, one hundred two rods to Saco river ; thence same course eighteen rods across said river ; thence same course six hundred forty four rods to a stone monument on the road leading to Fryeburg village, on the north side of the river. This monument is marked as before described and is about eight feet high above the ground ; thence same course one hundred forty two rods to Ballard's Mill Pond ; thence same course sixty one rods six links across said pond ; thence same course three hundred forty four rods to a stone monument on the east side of Chatham road ; thence same course ninety

rods to Kimball's Pond; thence same course one hundred thirty six rods across said pond; thence same course one hundred sixty six rods across said pond; thence same course sixty rods to a stone monument on the meadow; thence same course nine hundred forty rods to the corner of Bradley and Eastman's grant; thence same course six hundred and ninety rods to a stone monument on the east side of the cold-river road; this stone is marked as before described, but is not more than two feet above the ground; thence same course one thousand five hundred forty rods to the corner of Warner and Gilman's location a pile of stones:— at this point the variation of the needle was found to be ten degrees twenty three minutes west; thence same course four hundred and fifty rods to top of Mount Royce; thence same course eight hundred ninety eight rods to Wild river; thence same course eight rods across said river; thence same course seven hundred sixty five rods to a stone monument on the north side of the road leading from Lancaster to Bethel; thence same course one hundred rods to Androscoggin river; thence same course eighteen rods across said river; thence north eight degrees ten minutes east, four thousand one hundred sixty two rods across ten streams to Chickwalnepeg river; thence same course two thousand five hundred rods to a stone monument on the north side of the road leading from Errol to Andover; this stone is marked ‘N. H.’ and ‘M’; thence same course two hundred ten rods to Cambridge river; thence same course eight rods across said river; thence same course five hundred sixty seven rods to Umbagog Lake; thence same course ten rods across a peninsula of the same; thence same course two hundred twenty five rods across a bay of said lake; thence same course two hundred six rods across a peninsula of the same; thence same course one thousand one hundred sixty five rods across the north bay of said Lake to a cedar post

marked 'N.' 'M.'; thence north eight degrees east seven hundred fourteen rods to pond brook; thence same course two hundred twenty five rods to a stone monument on the south side of the Margalloway river; thence same course ten rods across said river; thence same course one hundred sixty two rods to a spruce, corner of the college grant; thence same course two hundred sixty four rods to Margalloway river a second time. At this point the variation of the needle was found to be eleven degrees forty five minutes west; thence same course ten rods across said river; thence same course two hundred and ninety rods to same river a third time; thence same course across said river ten rods to a monument made with three stones on the north side of said river, about two feet high and not marked; thence same course four hundred forty four rods to corner of township number five in second range in Maine; thence same course one thousand eight hundred six rods to the north corner of the same township; thence same course four hundred and sixty rods to a branch of Little Diamond river; thence same course three hundred fifty rods to another branch of the same; thence same course two thousand one hundred twenty rods to a branch of the Margalloway river; thence same course three hundred thirty two rods to another branch of the same; thence same course four hundred rods to a steep mountain called Prospect Hill; thence same course nine hundred and twenty rods to mount Carmel, sometimes called Sunday mountain; thence same course four hundred rods to a perpendicular precipice; thence same course five hundred and forty rods to a branch of Margalloway river; thence same course two hundred and sixty rods to a branch of the same; thence same course three hundred forty six rods to a second steep precipice; thence same course one hundred eighty six rods to a branch of Margalloway river; thence same course two hundred forty

two rods to another branch of the same river; thence same course seventy eight rods to a beaver pond; thence same course one hundred twenty six rods to a yellow birch tree on the highlands which divide the waters that run south from those that run into the St. Lawrence, being the northern extremity of the line, and one hundred and twelve miles two hundred and thirty three rods from the head of Salmon Falls River. Found said tree marked on the east side "M. E. 1789," and on the west "N. H. N. E., also "M. 54." To these marks we added "N. H." "N. E." and "M. E." "1828" "E. H." "A. M. M." "1828," and stones were piled around the same and marked. The whole course of the line from the Androscoggin river was re-marked by spotting the old marked trees and crossing the spots and marking others in the course: And the line as above surveyed and described, we agree to be the true boundary of said States. And the above described marks and monuments we establish to designate the same, and that the said line hereafter remain the boundary line between the States, unless the Legislature of either State, shall, at the first session after the execution of this agreement, by Resolve disapprove of the same.

WILLIAM KING, } *Commissioners of*  
RUFUS M'INTYRE. } *Maine.*

ICHABOD BARTLETT, } *Commissioners of*  
JOHN W. WEEKS. } *New Hampshire.*

November 13, 1828.

[Approved February 28, 1829]

[Resolve relating to a Report of Commissioners establishing the Boundary Line between Maine and New Hampshire.]

## CXLIII.

EXTRACTS FROM THE AWARD ACCORDING TO THE  
CONVENTION OF 1827, BY WILLIAM, KING  
OF THE NETHERLANDS.

JANUARY 10, 1831.

*Sources.*

After a formal ratification of the convention of 1827, the plenipotentiaries made choice of William, king of the Netherlands, as arbiter of questions submitted under the fifth article of the treaty of Ghent. January 10, 1831, the decision of the arbiter was announced through William Preble, minister of the United States of America at the Hague; March 18 a translation of the award was submitted by the president of the United States to His Excellency Samuel E. Smith, Governor of Maine, and was printed with "Resolves of the Ninth Legislature of the State of Maine" (Portland, 1829), 248-256; also with the "Governor's Message and Documents on the Subject of the Doings of the Arbiter . . ." (printed by order of the Legislature, 1831), Appendix B., 12-22. In both French and English the "award" is bound with a "Statement on the Part of the United States, of the Case referred, under the Convention of 1827 . . ." (printed but not published, Washington, 1829), Supplement, 1-13; a translation is in "American Annual Register" (Boston, 1832), 142-150; also it is printed by Joseph Bouchette, "The British Dominions in North America" (London, 1832), I., Appendix XIX., 489-495; and by Andrew Stuart, "Succinct Account of the Treaties and Negotiations between Great Britain and the United States, relating to the Boundary Line" (London, 1838,) 86-97. A recent text in French and English is found in John Bassett Moore, "History and Digest of the International Arbitrations to which the United States has been a Party, together with Appendices . . ." (Washington, 1898), I., 119-136.

Extracts which relate to the boundary line of Maine are reprinted from the "Resolves."

*Text.*

William, By the Grace of God, King of the Netherlands,  
Prince of Orange, Nassau, Grand Duke of Luxembourg,  
&c. &c. &c.

Having accepted the functions of Arbitrator, conferred upon us by the vote of the Charge d'Affaires of the United States of America, and by that of the Ambassador Extraordinary and Plenipotentiary of Great Britain, to our Minister of Foreign Affairs, under date of the 12th January, 1829, agreeable to the 5th article of the Treaty of Ghent, of the 24th December, 1814, and to the 1st article of the Convention concluded between those Powers at London, on the 29th of September, 1827, in the difference which has arisen between them on the subject of the boundaries of their respective possessions :

Animated by a sincere desire of answering, by a scrupulous and impartial decision, the confidence they have testified to us, and thus to give them a new proof of the high value we attach to it :

Having, to that effect, duly examined and maturely weighed the contents of the first statement, as well as those of the definitive statement of the said difference, which have been respectively delivered to us on the 1st of April of the year 1830, by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and the Ambassador Extraordinary and Plenipotentiary of His Britannic Majesty, with all the documents thereunto annexed in support of them :

Desirous of fulfilling, at this time the obligations we have contracted in accepting the functions of Arbitrator in the aforesaid difference, by laying before the two High Interested Parties the result of our examination, and our opinion on the three points into which, by common accord, the contestation is divided.

Considering that the three points abovementioned ought to be decided according to the treaties, acts and conventions concluded between the two Powers; that is to say: the Treaty of Peace of 1783, the Treaty of Friendship, Commerce, and Navigation of 1794, the Declaration relative to the River St. Croix of 1798, the Treaty of Peace signed at Ghent in 1814; the Convention of the 29th September, 1827; and Mitchell's Map, and the Map A. referred to in that Convention.

*We declare, that,* As to the first point, to wit, the question which is the place designated in the Treaties as to the north-west angle of Nova Scotia, and what are the highlands dividing the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, along which is to be drawn the line of boundary, from that angle to the Northwesternmost head of Connecticut River.

*Considering,* that the High Interested Parties respectively claim that line of boundary at the South and at the North of the river St. John, and have each indicated upon the Map A, the line which they claim:

*Considering,* That according to the instances alleged, the term highland applies not only to a hilly or elevated country, but also to land which, without being hilly, divides waters flowing in different directions; and that thus the character more or less hilly and elevated of the country through which are drawn the two lines respectively claimed, at the North, and at the South of the river St. John, cannot form the basis of a choice between them.

That the text of the 2nd article of the Treaty of 1783, recites, in part, the words previously used in the Proclamation of 1763, and in the Quebec Act or 1774, to indicate the Southern boundaries of the Government of Quebec, from Lake Champlain, "In forty five degrees of North

Latitude, along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, and also along the North coast of the Bay des Chaleurs."

That in 1763, 1765, 1773, and 1782, it was established that Nova Scotia should be bounded at the North, as far as the Western extremity of the Bay des Chaleurs, by the Southern boundary of the Province of Quebec; that this delimitation is again found, with respect to the Province of Quebec, in the Commission of the Governor General of Quebec of 1786, wherein the language of the Proclamation of 1763 and of the Quebec Act of 1774 has been used, as also in the Commissions of 1786, and others of subsequent dates of the Governors of New Brunswick, with respect to the last mentioned Province, as well as in a great number of maps anterior and posterior, to the Treaty of 1773;<sup>1</sup> and that the 1st Article of the said Treaty specifies, by name, the States whose independence is acknowledged:

But that this mention does not imply (implique) the entire coincidence of the boundaries between the two Powers, as settled by the following Article, with the ancient delimitation of the British Provinces, whose preservation is not mentioned in the Treaty of 1783, and which owing to its continual changes, and the uncertainty which continued to exist respecting it, created, from time to time, differences between the Provincial authorities:

That there results from the line drawn under the Treaty of 1783 through the great Lakes, west of the River St. Lawrence, a departure from the ancient provincial charters, with regard to the boundaries:

That one would vainly attempt to explain why, if the intention was to retain the ancient provincial boundary, Mitchell's Map, published in 1755, and consequently anterior

<sup>1</sup>Other translations give the correct date, 1783.—M. F. F.

to the Proclamation of 1763, and to the Quebec Act of 1774, was precisely the one used in the negotiation of 1783 :

That Great Britain proposed, at first, the River Piscataqua as the eastern boundary of the United States ; and did not subsequently agree to the proposition to cause the boundary of Maine, or Massachusetts Bay, to be ascertained at a later period :

That the Treaty of Ghent stipulated for a new examination on the spot, which could not be made applicable to an historical or administrative boundary ;

And that, therefore, the ancient delimitation of the British Provinces, does not, either, afford the basis of a decision :

That the longitude of the Northwest angle of Nova Scotia, which ought to coincide with that of the source of the St. Croix river, was determined only by the Declaration of 1798, which indicated that river :

That the Treaty of Friendship, Commerce and Navigation of 1794, alludes to the doubt which had arisen with respect to the River St. Croix, and that the first instructions of the Congress, at the time of the negotiations which resulted in the Treaty of 1783, locate the said angle at the source of the River St. John :

That the latitude of that angle is upon the banks of the St. Lawrence, according to Mitchell's Map, which is acknowledged to have regulated the combined and official labours of the negotiators of the Treaty of 1783, whereas, agreeably to the delimitation of the Government of Quebec, it is to be looked for at the highlands which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the sea :

That the nature of the ground east of the before-mentioned angle not having been indicated by the Treaty of 1783, no argument can be drawn from it to locate that angle at one place in preference to another :

That, at all events, if it were deemed proper to place it nearer to the sourcee of the River St. Croix, and look for it, at Mars Hill, for instance, it would be so much the more possible that the boundary of New Brunswick drawn thence northeastwardly would give to that Province several northwest angles, situated farther north and east, according to their greater remoteness from Mars Hill, that the number of degrees of the angle referred to in the Treaty has not been mentioned :

That, consequently, the North-West angle of Nova Scotia, here alluded to, having been unknown in 1783, and the Treaty of Ghent having again declared it to be unascertained, the mention of that historical angle in the Treaty of 1783 is to be considered as a petition of principle (*pétition de principe*), affording no basis for a decision, whereas, if considered as a topographical point, having reference to the definition, viz : "that angle which is formed by a line drawn due North from the source of St. Croix River to the highlands," it forms simply the extremity of the line "along the said highlands, which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean," — an extremity which a reference to the North-West angle of Nova Scotia does not contribute to ascertain, and which still remaining, itself, to be found, cannot lead to the discovery of the line which it is to terminate :

Lastly, that the arguments deduced from the rights of Sovereignty exercised over the Fief of Madawaska and over the Madawaska settlement — even admitting that such exercise were sufficiently proved — cannot decide the question, for the reason that those two settlements only embrace a portion of the territory in dispute, and that the High Interested Parties have acknowledged the country lying between the two lines respectively claimed by them, as

constituting a subject of contestation, and that, therefore, possession cannot be considered as derogating from the right; and that if the ancient delimitation of the Provinces be set aside, which is adduced in support of the line claimed at the North of the river St. John, and especially that which is mentioned in the Proclamation of 1763, and in the Quebec Act of 1774, no argument can be admitted in support of the line claimed at the South of the river St. John, which would tend to prove that such part of the territory in dispute belongs to Canada or to New Brunswick.

*Considering;* that the question divested of the inconclusive arguments drawn from the nature, more or less hilly, of the ground,— from the ancient delimitation of the Provinces,— from the North-west angle of Nova Scotia, and from the actual possession, resolves itself, in the end, to these: Which is the line drawn due North from the source of the river St. Croix, and which is the ground, no matter whether hilly and elevated, or not, which from that line to the Northwesternmost head of Connecticut river, divides the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean; that the High Interested Parties only agree upon the fact that the boundary sought for must be determined by such a line and by such a ground; that they further agree, since the Declaration of 1798, as to the answer to be given to the first question, with the exception of the latitude at which the line drawn due North from the source of the St. Croix river is to terminate; that said latitude coincides with the extremity of the ground which, from that line to the Northwesternmost source of Connecticut River, divides the rivers which empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean; and that, therefore, it only remains to ascertain that ground:

That, on entering upon this operation, it is discovered, on the one hand, First, that if, by adopting the line claimed at the North of the river St. John, Great Britain cannot be said as obtaining a territory of less value than if she had accepted, in 1783 the river St. John as her frontier, taking into view the situation of the country situated between the rivers St. John and St. Croix, in the vicinity of the sea, and the possession of both banks of the river St. John in the lower part of its course, said equivalent would, nevertheless be destroyed by the interruption of the communication between Lower Canada and New Brunswick, especially between Quebec and Frederickton; and one would vainly seek to discover what motives could have determined the Court of London to consent to such an interruption:

That if, in the second place, in contra-distinction to the rivers that empty themselves into the river St. Lawrence, it had been proper agreeably to the language used in geography, to comprehend the rivers falling into the Bays of Fundy and des Chaleurs with those emptying themselves directly into the Atlantic Ocean, in the generical denomination of rivers falling into the Atlantic Ocean, it would be hazardous to include into the species belonging to that class the rivers St. John and Restigouche, which the line claimed at the North of the river St. John divides immediately from rivers emptying themselves into the river St. Lawrence, not with other rivers falling into the Atlantic Ocean, but alone; and thus to apply, in interpreting the delimitation established by a Treaty, where each word must have a meaning, to two exclusively special cases, and where no mention is made of the genus (*genre*), a generical expression which would ascribe to them a broader meaning, or which, if extended to the Schoodiac Lakes, the Penobscot and the Kennebec, which empty themselves directly into the Atlantic Ocean, would establish the principle that the

Treaty of 1783 meant highlands which divide as well mediately as immediately, the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean — a principle equally realized by both lines.

Thirdly, That the line claimed at the North of the river St. John does not divide, even immediately, the rivers that empty themselves into the river St. Lawrence from the rivers St. John and Restigouche, but only rivers that empty into the St. John and Restigouche, with the exception of the last part of said line, near the sources of the river St. John, and that hence, in order to reach the Atlantic Ocean, the rivers divided by that line from those that empty themselves into the river St. Lawrence each need two intermediate channels, to wit : the ones, the river St. John and the Bay of Fundy, and the others, the river Restigouche and the Bay of Chaleur :

*And on the other hand,* That it cannot be sufficiently explained how, if the high Contracting Parties intended, in 1783, to establish the boundary at the South of the river St. John, that river, to which the territory in dispute is, in a great measure, indebted for its distinctive character, has been neutralized and set aside :

That the verb “divide” appears to require the contiguity of the objects to be “divided” :

That the said boundary forms at its Western extremity, only, the immediate separation between the river Metjar-mettee, and the Northwesternmost head of the Penobscot, and divides, mediately, only, the rivers that empty themselves into the river St. Lawrence from the waters of the Kennebec, Penobscot and Schoodic Lakes; while the boundary claimed at the North of the river St. John divides, immediately, the waters of the rivers Restigouche and St. John ; and, mediately, the Schoodic Lakes, and the waters of the rivers Penobscot and Kennebec, from the rivers that

empty themselves into the river St. Lawrence, to wit: the rivers Beaver, Metis, Rimousky, Trois, Pistolets, Green, Du Loup, Kamouraska, Ouelle, Bras St. Nicholas, Du Sud, La Famine and Chaudiere:

That even setting aside the rivers Restigouche and St. John, for the reason that they could not be considered as falling into the Atlantic Ocean, the Northern line would still be as near as to the Schoodiae lakes, and to the waters of the Penobscot and of the Kennebec, as the Southern line would be to the rivers Beaver, Metis, Rimousky and others that empty themselves into the river St. Lawrence; and would, as well as the other, form a mediate separation between those and the rivers falling into the Atlantic Ocean:

That the prior intersection of the Southern boundary, by a line drawn due north from the source of the St. Croix river, could only secure to it an accessory advantage over the other, in case both the one and the other boundary should combine, in the same degree, the qualities required by the Treaties:

And that the fate assigned by that of 1783 to the Connecticut, and even to the St. Lawrence, precludes the supposition that the two Powers could have intended to surrender the whole course of each river, from its source to its mouth, to the share of either the one or the other:

*Considering*, That, after what precedes, the arguments adduced on either side, and the documents exhibited in support of them, cannot be considered as sufficiently preponderating to determine a preference in favor of one of the two lines respectively claimed by the High Interested Parties, as the boundaries of their possessions from the source of the river St. Croix to the Northwesternmost head of Connecticut River; and that the nature of the difference, and the vague and not sufficiently determinate stipulations of the Treaty of 1783, do not permit to adjudge either of

those lines to one of the said Parties, without wounding the principles of law and equity, with regard to the other;

*Considering*, That, as has already been said, the question resolves itself into a selection to be made of a ground, dividing the rivers that empty themselves into the River St. Lawrence from those that fall into the Atlantic Ocean: that the High Interested Parties are agreed with regard to the course of the streams delineated by common accord on the Map A. and affording the only basis of a decision;

And that, therefore, the circumstances upon which such decision could not be further elucidated by means of fresh topographical investigation, nor by the production of additional documents;

*We are of opinion*, That it will be suitable (il convient-dra) to adopt as the boundary of the two States a line drawn due North from the source of the river St. Croix to the point where it intersects the middle of the thalweg<sup>1</sup> of the river St. John, thence the middle of the thalweg of that river, ascending it, to the point where the river St. Francis empties itself into the river St. John, thence the middle of the thalweg of the river St. Francis, ascending it, to the source of its Southwesternmost branch, which source we indicated, on the Map A. by the letter X, authenticated by the signature of our minister of Foreign Affairs, thence a line drawn due West, to the point where it unites with the line claimed by the United States of America and delineated on the Map A, thence said line to the point at which, according to said Map, it coincides with that claimed by Great Britain, and thence the line traced on the Map by the two powers, to the North-westernmost source of Connecticut River.

<sup>1</sup> Thalweg — a German compound word — Thal, valley, and Weg, way. It means here the deepest channel of the river.

Thus done and given under our Royal Seal, at the Hague, this tenth day of January, in the year of our Lord one thousand eight hundred and thirty-one, and of our Reign the eighteenth.

(Signed) WILLIAM.

The Minister of Foreign Affairs,  
(Signed) VERSTOLK DE SOELEN.

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#### CXLIV.

#### ACT TO MODIFY THE ACT OF SEPARATION BY THE ELEVENTH LEGISLATURE OF THE STATE OF MAINE.

FEBRUARY 19, 1831.

##### *Sources.*

Under Article VII. section 1, of the Act of Separation the terms and conditions relating to the administration of ministerial and school funds were strictly defined. The act of February 19, 1831, was designed to give the legislature of Maine greater power in the management of such funds.

The text is from "The Public Acts of the State of Maine, passed by the Eleventh Legislature" (Portland, 1831), 1275, 1276.

##### *Text.*

SECT. 1. Be it enacted by the Senate and House of Representatives in Legislature assembled, That the terms and conditions, mentioned in the Act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts proper, and forming

the same into a separate and independent State," be, and they are hereby, so far modified, or annulled, that the Trustees of any Ministerial or School Fund, incorporated by the Legislature of Massachusetts, in any town within this State, shall have, hold and enjoy their powers and privileges, subject to be altered, restrained, extended or annulled by the Legislature of Maine, with the consent of such Trustees and of the town for whose benefit such fund was established.

SECT. 2. *Be it further enacted*, That the terms and conditions of the Act aforesaid, be, and they are hereby, so far modified or annulled, that the Legislature of the State of Maine, shall have the power to direct the income of any fund, arising from the proceeds of the sale of land, required to be reserved for the benefit of the Ministry, to be applied for the benefit of primary schools, in the town, in which such land is situate, where the fee in such land has not already become vested in some particular Parish within such town, or in some individual. And this Act shall take effect and be in force, *Provided*, the Legislature of Massachusetts shall give its consent thereto.

[Approved by the Governor, February 19, 1831.]

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## CXLV.

### ACT OF SEPARATION MODIFIED, BY THE GENERAL COURT OF MASSACHUSETTS.

JUNE 20, 1831.

#### *Sources.*

The "Act to Modify the Act of Separation," which was passed by the legislature of the State of Maine at its eleventh session, was submitted to the General Court of

the commonwealth of Massachusetts for ratification, and was approved June 20, 1831, on conditions named in the final clause. The act is included in this collection of Maine documents because it illustrates the relations which the two states held for many years after the formal separation.

The text is reprinted from "Laws of the Commonwealth of Massachusetts" (Boston, 1833), XII., 90-92.

*Text.*

WHEREAS the legislature of the state of Maine did, on the nineteenth day of February, in the year of our Lord one thousand eight hundred and thirty-one, pass an act entitled "an act to modify the terms and conditions of the act of separation," which act of the legislature of the state of Maine is in the following words. "Section 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, that the terms and conditions mentioned in the act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled, "an act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent state," be, and they are so far modified and annulled, that the trustees of any ministerial or school fund, incorporated by the legislature of Massachusetts in any town within this state, shall have, hold, and enjoy their powers and privileges, subject to be altered, restrained, extended or annulled by the legislature of Maine, with the consent of such trustees, and of the town for whose benefit such fund was established. Section 2. Be it further enacted, That the terms and conditions of the act aforesaid, be, and they are hereby so far modified or annulled, that the legislature of the state of Maine shall have the power to direct the income of any fund arising from the proceeds of the sale of land, required to be

reserved for the benefit of the ministry, to be applied for the benefit of primary schools, in the town in which such land is situate, where the fee in such land has not already become vested in some particular parish within such town, or in some individual.— And this act shall take effect and be in force, provided the legislature of the Commonwealth of Massachusetts shall give its consent thereto.” And whereas the Governor of the state of Maine did, pursuant to a resolve of the legislature of that state, transmit to the Governor of this Commonwealth a copy of the aforesaid act, certified by the secretary of state for the state of Maine, with a request that the same might be laid before the legislature of Massachusetts, which having been done, Therefore,

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled “An Act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into an independent state,” be so far modified, as to permit an exercise of legislation by the Government of the state of Maine, over the subject of ministerial and school lands within its territorial jurisdiction, granted or reserved for those purposes before the separation of that state from the Commonwealth of Massachusetts, with the restrictions, and upon the conditions expressed in the aforesaid act of the legislature of Maine; provided, that in all such cases the consent of the proprietor or proprietors of such lands shall be previously obtained.*

[Approved by the Governor, June 20, 1831.]

## CXLVI.

RESOLUTIONS AGAINST ACCEPTING THE AWARD OF  
WILLIAM, KING OF THE NETHERLANDS,  
BY THE TWELFTH LEGISLATURE  
OF THE STATE OF MAINE.

JANUARY 19, 1832.

*Sources.*

The award of William, king of the Netherlands, made January 10, 1831, was a compromise rather than an act of arbitration according to the terms of the boundary convention of 1827. By the award boundary lines described according to treaties were rejected and a middle line for the "Highlands" was presented. Inasmuch as the federal government had no right to change the boundaries of a state without its consent, the protest of the State of Maine, which was expressed through the resolutions of January 19, 1832, had a determining influence on the rejection of the award by the senate of the United States.

The resolutions were first printed with the "Report of the Joint Select Committee of the State of Maine of so much of the Governor's Message as Relates to the North-Eastern Boundary" (Augusta, 1832), 6-8; and was reprinted in "Resolves of the Twelfth Legislature of the State of Maine" (Augusta, 1832), 343, 344, which is the text adopted.

*Text.*

*Resolved*, That the Constitution of the United States does not invest the General Government with unlimited and absolute powers, but confers only a special and modified sovereignty, without authority to cede to a foreign power any portion of territory belonging to a State, without its consent.

*Resolved*, "That if there is an attribute of State Sovereignty which is unqualified and undeniable, it is the right of jurisdiction to the utmost limits of State Territory ; and if a single obligation under the Constitution rests upon the Confederacy, it is to guaranty the integrity of this territory to the quiet and undisturbed enjoyment of the States."

*Resolved*, That the doings of the King of Holland, on the subject of the Boundary between the United States and Great Britain, are not a decision of the question submitted to the King of the Netherlands ; and that his recommendation of a suitable or convenient line of boundary is not obligatory upon the parties to the submission.

*Resolved*, That this State protests against the adoption, by the Government of the United States, of the line of boundary recommended by the King of Holland as a suitable boundary between Great Britain and the United States ; inasmuch as it will be a violation of the rights of Maine,—rights acknowledged and insisted upon by the General Government,—and will be a precedent, which endangers the integrity, as well as the independence, of every State in the Union.

*Resolved*, That while the people of this State are disposed to yield a ready obedience to the Constitution and laws of the United States, they will never consent to surrender any portion of their territory, on the recommendation of a Foreign Power.

*Resolved*, That the Governor, with advice of Council, be authorized to appoint a competent Agent, whose duty it shall be, as soon as may be, to repair to the City of Washington, and deliver to the President of the United States a copy of the preceding Report and these Resolutions, with a request that he will lay the same before the Senate of the United States ; and also to deliver a copy to the Vice President, to each of the Heads of Departments, and to each

Member of the Senate, and to our Representatives in Congress.

*Resolved*, That our Senators in Congress be instructed, and our Representatives requested, to use their best efforts to prevent our State from being dismembered, our territory alienated, and our just rights prostrated, by the adoption of a *new* line for our North Eastern Boundary, as recommended by the King of Holland.

*Resolved*, That the Agent to be appointed by the Governor and Council, be instructed to co-operate with our Senators and Representatives, in advocating and enforcing the principles advanced, and positions taken, in the foregoing Resolutions, and in supporting all such measures as shall be deemed best calculated to preserve the integrity of our State, and prevent any portion of our territory and citizens from being transferred to a Foreign Power.

IN THE HOUSE OF REPRESENTATIVES, January 18, 1832.

Read and passed.

BENJAMIN WHITE, *Speaker*.

Read and passed, IN SENATE, Jan. 19, 1832.

ROBERT P. DUNLAP, *President*.

Approved, JANUARY 19, 1832.

SAMUEL E. SMITH.

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### CXLVII.

COOPERATION OF MASSACHUSETTS SOLICITED, BY  
THE TWELFTH LEGISLATURE OF THE STATE  
OF MAINE.

JANUARY 24, 1832.

*Sources.*

The intimate relation which existed between Maine and Massachusetts was strengthened by the large amount of

public lands still held jointly as well as in severalty by both states, especially upon the frontier, where the work of surveying had been stopped by the disturbed condition of affairs. The twelfth legislature of the State of Maine passed a resolve January 24, 1832, requesting the cooperation of Massachusetts in refusing a *new* line for the northeastern boundary. February 15 the General Court passed a concurrent resolve to reject the "award" of William, king of the Netherlands.

The text is reprinted from "Resolves of the Twelfth Legislature of the State of Maine" (Augusta, 1832), 344, 345.

*Text.*

Whereas it appears by the extraordinary recommendation of the King of Holland, acting as Arbitrator on the North Eastern Boundary question, that a portion of our territory, of which the Commonwealth of Massachusetts and the State of Maine are joint owners, is sought to be ceded to Great Britain in violation of the rights of property of the former State, and of the rights of property, as well as sovereignty, of this State; and Whereas a crisis has arrived, which, it is believed, calls for the vigorous and united action of Massachusetts and Maine to save the former from the loss of property and the latter from being dismembered: and

Whereas the people of Maine, recently separated from the Parent State, feel that they will not appeal in vain to the high moral sense, as well as the sympathies, of the Commonwealth of Massachusetts to aid them, at this critical juncture, in preventing their ancient landmarks from being removed, and a portion of their territory and citizens from being wrongfully transferred to a foreign Power; therefore,

*Resolved*, That the Legislature of the Commonwealth of Massachusetts be requested to co-operate with this State in such measures as shall be best calculated to prevent the adoption of a *new* line for the Northeastern Boundary of the United States, as recommended by the King of Holland,

instead of the old line established by the treaty of seventeen hundred eighty three, whereby a portion of the territory owned by the two States is jeopardized, and the integrity and sovereignty of this State are threatened.

*Resolved*, That the Governor, with advice of Council, be authorized to appoint an Agent, whose duty it shall be to repair to Boston and deliver to the Executive of Massachusetts a copy of these and other Resolves in relation to the Northeastern Boundary question, passed at this session, with a request that he will lay the same before the Legislature of that Commonwealth, and that he also deliver a copy to each member of the Council and Legislature of the Commonwealth.

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### CXLVIII.

#### RESOLVE RESPECTING THE PUBLIC LANDS HELD IN COMMON BY MAINE AND MASSACHUSETTS, WITH REPORT OF COMMISSIONERS, BY THE TWELFTH LEGISLATURE OF THE STATE OF MAINE.

MARCH 9, 1832.

#### *Sources.*

A plan for the management of the public lands held jointly as well as in severalty by Maine and Massachusetts which was drawn up by the commissioners appointed by the respective states was presented, with resolutions, to the twelfth legislature of the State of Maine, and was approved March 9, 1832; it was accepted and ratified by the General Court of Massachusetts, March 14.

The text is reprinted from "Resolves of the Twelfth Legislature of the State of Maine" (Augusta, 1832), Ch. 119, pp. 439-442.

*Text.*

Whereas the Commissioners appointed by the respective Governments of Massachusetts and Maine for the purpose of agreeing upon a system for the sale, disposition, and management of the public lands have made Report of their agreement in the words following.

Now we, George W. Coffin the Commissioner appointed on the part of the said Commonwealth, and Daniel Rose, the Commissioner appointed on the part of the State of Maine, pursuant to the authority vested in us, and in execution of the duties assigned to us in and by said Resolves, and our Commissions aforesaid, met at Augusta, in the said State of Maine, on Tuesday the seventeenth day of January, eighteen hundred and thirty two; and having considered the subject matter of our appointment, do agree, without any division of sentiment, to report the following system for the future disposition and management of the public lands, which we believe will advance the interests of both States, by rendering the lands intrinsically more valuable, and consequently more available to their funds; viz: —

That all that section of the State of Maine, which now remains undivided, being the joint property of both States, shall hereafter be placed under the care, supervision and management jointly of the Land Agents of both States, for the time being, with power and authority to cause the same to be explored, from time to time, as they may judge expedient; noting particularly the soil and growth, the situation of the rivers and streams, their capability of affording aids for transportation, and mill privileges, the situation and extent of the mountains and bogs, together with remarks upon the geology of the country, and such other information as can be obtained, indicative of the quality and value of the territory, that the relative qualities of the several sections may be better known and duly appreciated. And

that said Agents be authorized and empowered, to dispose of the timber and grass, standing and growing on said territory, in such way and manner as they may consider will best promote the interests of the States; and to sell the land, in lots in such way and manner as will in their judgment be most conducive to the interest of both States, and best promote and expedite the settlement of the Country; and also to sell, in half, or whole townships, any part of said territory, when the wants of the public require them and can be disposed of to advantage; and so long as the same, or any part, remains unsold, to cause it to be protected from the depredations of trespassers, by an adequate supervision of the premises.

And that said Agents be further authorized and empowered to have a road surveyed and constructed, from the north line of the eighth range of townships north of the Waldo patent, in a northerly direction, over the most suitable land they can find for a road, between Moosehead and Chesuncook Lakes, towards the head waters of the Alagash river. And in all sales of land, contracts to be executed jointly by said Agents, on a credit not to exceed five annual payments, secured by notes payable with interest annually; the States to have a lien on all the timber cut on said lands, if any, as security for the payment of said notes; no timber however to be cut unless written permits are first obtained from said Agents. And when said notes are fully paid, and cancelled, said Contracts to have the full effect, and validity of a deed; and unless the notes are paid when due, the Contract to be null and void, and all payments which have been made, to be forfeited to the use of said States. And one moiety of all sums of money, and securities, received for timber, or land, sold according to the foregoing provisions, after deducting the expenses for surveys, explorations, and other incidental charges, shall be placed in the hands of

each Agent, for the benefit of their respective States, to be accounted for by each Agent, to the State or Commonwealth which he represents.

And whereas, a very considerable portion of the public lands in Maine, have already been divided, and set off in severalty to each State; and although a separate title, or fee simple is thereby assigned to each State, of the townships so set off, yet in fact, the interest in the territory at large, especially that part which lies north of the monument line, remains the same as before the division took place, and all measures that would have a tendency to facilitate the settlement, and enhance the value before the division was executed, are equally applicable now. The Agents aforesaid, are hereby authorized and empowered, to cause a particular exploration to be made, where the same may be necessary for their information and guidance, of such townships as were surveyed by order of the Commissioners, under the act for the separation of Maine from Massachusetts; and also of the townships lying north, and west of Bingham's Kennebec purchase, and are now unsold, and which are soon likely to be in the market; and when they have obtained such information as will lead to a just estimate of the value of each township, to have them classed in from one to six classes; those that are of the first quality for timber, to be placed in class number one, and those in the next grade, in number two; and those of the first quality for settlement, in the third, and so on, to six classes; and that a minimum price be put upon each class, below which no township, which may hereafter be authorized by the Legislatures to be sold, shall be disposed of, viz: Class number one, at seventy-five cents; number two, at sixty cents; number three, at fifty cents; number four at forty cents; number five, at thirty cents; and number six at twenty cents an acre, after deducting the reservation of the

public lots. And said Agents are hereby authorized, from time to time, as their information extends, to admit into the class to which they may belong, such townships as are now remote from the market, and which have not been previously classed; and also place such townships as may have been erroneously estimated at the first valuation, to the class to which they really belong; and transcripts of such valuation, certified by said Agents, shall be delivered to each Agent, that said Agents may proceed to dispose of them, for the benefit of the State which they severally represent, in such way and manner, as they would have done, had not this agreement been made; subject only to the obligation, of not selling at a less price per acre, than the minimum valuation fixed thereon as aforesaid. And such townships as are peculiarly suitable for a settlement, when lotted for that purpose, to be sold in lots, to such persons only, as intend, and will engage to settle and improve the same, to be fixed at the minimum value of fifty cents an acre.

And said Agents are hereby authorized to continue the road that has already been commenced, from Mattawamkeag river to the Aroostook river, and also to remove such obstructions in the rivers and streams, and make such other improvements in the territory in general, as in their opinion will add facilities to a settlement of the Country, and provide an easy access to the territory in the interior. Provided, that the expense of such improvements does not exceed the amount of ten per centum, of the amount received for sales of timber, and land; And provided further, that the Executive of either State may suspend the authority of the Agent of that State, in the sale of land, timber, &c., until the meeting of the Legislature, and to the end of the session thereof, unless in the mean time, the Legislature shall otherwise direct the Agent aforesaid. And each State shall be responsible for the fidelity of its own Agent, and shall

be accountable to the other, for any pecuniary loss, by reason of the joint sales of the said Agents of any lands, which are not duly accounted for, and the proceeds thereof paid over by the Agent of either State receiving the same, in proportion one to the other.

In testimony whereof we, the said Commissioners, have to this instrument set our hands, this nineteenth day of January, in the year of our Lord one thousand eight hundred and thirty-two.

GEO. W. COFFIN,  
DANIEL ROSE.

*Resolved*, That the Legislature of Maine on their part, approve and ratify said agreement and authorize the Land Agent, for the time being, to carry the same into effect, so far as regards this State, *Provided*, said agreement shall be also ratified and approved by the Legislature of Massachusetts. And provided also that after the expiration of five years from the date of said agreement it shall be competent for the Legislature of either State to discontinue or annul said arrangement, unless both parties should then be satisfied to continue it for a further time.

*Resolved*, That the Governor be requested to transmit a copy of the foregoing preamble and resolution to the Executive of Massachusetts.

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#### CXLIX.

BOND GIVEN TO THE PENOBCOT TRIBE OF  
INDIANS, BY COMMISSIONERS OF THE  
STATE OF MAINE.

JUNE 10, 1833.

*Sources.*

The bond given to the Penobscot tribe of Indians, June 10, 1833, was for \$50,000 to be deposited for the use of

the tribe in lieu of townships purchased from them by the commissioners.

The bond was printed, with Indian treaties, by Joseph W. Porter, editor, "Bangor Historical Magazine" (Bangor, 1886, 1887), II., 99, 100; it was first transcribed from the original document, and printed with "Acts and Resolves of the Twenty-third Legislature of the State of Maine" (Augusta, 1843), 262, 263, which is the text adopted.

*Text.*

*Whereas* We, Amos M. Roberts, of Bangor, and Thomas Bartlett, of Orono, in the county of Penobscot, Esquires, commissioners appointed by the governor of Maine, to purchase for said state such of the lands of the Penobscot tribe of Indians as they might be disposed to sell, having met the governor and principal men of said tribe in the council chamber of said tribe, on the 10th day of June, A.D. 1833, for the purpose of purchasing the lands aforesaid, and having discussed the subject of the meeting in open council and there obtained the consent of said tribe to sell their four townships of land to said state, and *whereas*, the governor and lieutenant governor, by his attorney, by him appointed for that purpose, the councillors and captains of said tribe, then and there executed to said state, under their hands and seals, a deed of said four townships, covenanting for themselves and in behalf of said tribe to warrant and defend the same to the state against the claims of said tribe. Now, therefore, we the commissioners aforesaid, in consideration of the premises have and do hereby covenant with said tribe of Indians, in behalf of the state of Maine, to pay to said tribe the sum of fifty thousand dollars, in the manner following, to wit: said sum of fifty thousand dollars shall be deposited in the states treasury, and the interest, reckoning from the date hereof, shall annually be paid under the direction of the governor and council of said state, through the Indian agent for the benefit of said

tribe: *provided* it should in their opinion, be required for the comfortable support of said tribe, and if at any time at the annual settlement any part of said interest should remain in the treasury, unexpended, it shall be added to the principal of fifty thousand dollars and become a part thereof, and said sum of fifty thousand dollars, together with such increase as it may from year to year receive, and shall forever remain in the treasury an accumulating fund, for the benefit of said tribe.

In witness whereof, we the said commissioners, have hereunto set our hands and seals this 10th day of June, A.D. 1833.

*Signed, Sealed and delivered }  
in presence of                  }*

(L. S.)

(L. S.)

We hereby certify that the above obligation is a true copy of the one we gave to the Indians.

A. M. ROBERTS,                  } *Commissioners.*  
THOMAS BARTLETT,                  }

Bangor, January, 1834.

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CL.

ACT TO ESTABLISH THE MASSACHUSETTS  
SCHOOL FUND, BY THE GENERAL COURT  
OF MASSACHUSETTS.

MARCH 31, 1834.

*Sources.*

The act to establish the Massachusetts school fund is included in this collection of documents relating to the territorial history of Maine that the economic relation of our

public lands to the educational interests both of Maine and Massachusetts may be more clearly understood.

The text adopted is that of the "Laws of the Commonwealth of Massachusetts" (Boston, 1836), XIII., 241, 242.

*Text.*

An Act to Establish the Massachusetts School Fund.

SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That, from and after the first day of January next, all monies in the treasury derived from the sale of lands in the state of Maine, and from the claim of the state on the government of the United States for military services, and not otherwise appropriated, together with fifty per centum of all monies thereafter to be received from the sale of lands in Maine, shall be appropriated to constitute a permanent fund for the aid and encouragement of common schools: *provided*, that such fund shall never exceed one million of dollars.

SEC. 2. *Be it further enacted*, That the income only of said fund shall be appropriated to the aid and encouragement of common schools, and that a just and equal distribution thereof shall be made to the city of Boston and the several towns and districts in the Commonwealth in such manner as the legislature shall hereafter appoint: *provided*, that there shall never be paid to any city, town or district a greater sum than is raised therein respectively for the support of common schools.

[Approved by the Governor, March 31, 1834.]

## CLI.

## RESOLVE RELATING TO THE NORTHEASTERN BOUNDARY, BY A COMMITTEE APPOINTED BY THE LEGISLATURE OF THE STATE OF MAINE.

MARCH 30, 1841.

*Sources.*

The resolves relating to the northeastern boundary, which were presented to the twenty-first legislature of the State of Maine by a committee appointed by the legislature, not only illustrate the condition of affairs on the frontier during the so-called "Madawaska war," but they also represent the sentiment of Maine with regard to the course to be adopted by the federal government.

The resolves were first printed with "Report of the Committee, Charles S. Daveis, Chairman, on the Northeastern Boundary, Legislative Documents, 1841," Senate, No. 19, pp. 77-80; and reprinted in "Resolves of the Twenty-first Legislature of the State of Maine" (Augusta, 1841), 637, 638.

The text adopted is that of the "Report."

*Text.*

*Resolved*, That the Legislature sees no occasion to renew the declarations heretofore made of the right of this State to the whole of its territory, according to the treaty of 1783, unjustly drawn into question by Great Britain, (entirely recognized by the unanimous Resolutions of Congress in 1838,) nor to repeat its own former Resolutions on the subject. And it regards with grateful satisfaction the strong, increasing and uniform demonstrations, from all parts of the Union, of conviction thereof, and of determination to support the same.

*Resolved*, That this Legislature adopts and affirms the principles of former Resolves of preceding Legislatures in relation thereto, in all their force and extent; that it approves their spirit, insists on their virtue, adheres to their terms, and holds the National Government bound to fulfil their obligations; that it deprecates any further delay, and cherishes an earnest trust and expectation, that the National Government will not fail, speedily to cause our just rights, too long neglected, to be vindicated and maintained, either by negotiation or by arms.

*Resolved*, That we truly appreciate the patriotic spirit with which the Federal Government espoused, and our sister States embraced our cause, and the country came to our side, in a most severe and critical emergency; and that, confiding in their continued sympathy and support, and confirmed in the strength of our cause, we feel warranted to rely for safety on the sovereign power of the Union, the people of this State maintaining all their Constitutional rights.

*Resolved*, That in accordance with the generous examples of our sister States, and not to be behind their free-will offerings on our behalf, this State also voluntarily tenders its whole powers and resourcess, without reserve, to the supreme authorities of the Union, to sustain our national rights and honor; and it stands ready, furthermore, obeying the call, and abiding the will, of the country, to go forward and occupy that position which belongs and shall be marked out to it; and engages that it will not be wanting in any act, or duty, of devotion to the Union, of fidelity to itself, and, above all, to the common cause of our whole country.

*Resolved*, That this State is suffering the extreme unresisted wrong of British invasion, begun in 1839, repeated in 1840, and continued to this time, in violation of solemn

and deliberate pledges from abroad, guaranteed by our own Executive Government; that the President of the United States, therefore, be requested and called upon to fulfil the obligation of the Federal Constitution, by causing the immediate removal, or expulsion, of the foreign invading force, now stationed within the bounds of Maine; and, other methods failing, to cause military possession to be taken of the disputed territory.

*Resolved*, That the Government of the United States be earnestly invoked to provide for our future protection against foreign aggression, by proper establishments of military force, upon the frontier, and by the due exertion of its constitutional powers, to liberate and relieve this State from the present heavy burden of its own needful, unavoidable, defence.

*Resolved*, That the Government of the United States is bound to cause the commission appointed to explore and trace the North-Eastern Boundary line from the North-West angle of Nova Scotia, along those highlands which divide the waters that empty into the river St. Lawrence from those that fall into the Atlantic Ocean, according to the treaty of 1783, to be prosecuted with the utmost speed, vigor, and certainty to its definite and absolute conclusion, and that the same should be completed, and the true line run, and marked, within the period of the present year.

*Resolved*, That the Governor be requested to transmit a copy of these Resolves, together with this Report, to the President of the United States; and that similar copies of the same be transmitted to the presiding officers of the two branches of Congress, and to the Executives of the several States and the presiding officers of the several Legislatures of said States, and to the Senators and Representatives in Congress of this State and of Massachusetts.

## CLII.

RESOLVE IN FAVOR OF A CONVENTIONAL LINE,  
BY THE TWENTY-SECOND LEGISLATURE OF  
THE STATE OF MAINE.

MAY 26, 1842.

*Sources.*

During the years from 1832, when the award of the king of the Netherlands was waived by both the "interested parties," until 1842, when Maine assented to a compromise, there had been frequent collisions on the frontier. Although the Aroostook, or Madawaska war, called for troops which were sent to the scene of disturbance, the outbreak was a bloodless war; nevertheless it was the occasion of great annoyance and the expenditure of large sums of money.

The printed volumes of "Resolves of the State of Maine" contain valuable material connected with those years of open controversy. Other works are by Albert Gallatin, "The Right of the United States to the North-Eastern Boundary claimed by them" (New York, 1840); Charles S. Daveis, "Report of the Committee on the North Eastern Boundary, Legislative Documents, 1841;" William P. Preble, "The Decision of the King of the Netherlands" (published anonymously, Portland, 1841); Israel Washburn, Jr., "The North-Eastern Boundary," in Maine Historical Society, "Collections," Vol. VIII.; and John G. Deane's map illustrating the loss to Maine by the North-eastern Boundary (1842); in the society's "Collections and Proceedings," Vol. I. In the Library of Harvard University in a bound volume are copies of commissions of the several governors who administered the affairs of the English Provinces from 1769 to 1786; this manuscript volume was used by Mr. Preble while he was minister of the United States at the Court of the Netherlands.

The resolve in favor of a conventional line is printed in "Resolves passed by the Legislature of Maine at the Extra

Session, 1842" (Augusta, 1842), 110, 111, also with "House Executive Documents," 27 Cong. 3 sess., No. 2, 67, 68. The text adopted for this reprint is that of the "Resolves."

*Text.*

*Whereas*, the preceding legislatures of this state, in conformity with the well settled conviction of all the people thereof, and with incontrovertible evidence before them on the subject, have uniformly declared that the boundary of Maine, on its northern and northeastern frontiers, as designated in the treaty of 1783, can be laid down and fixed according to the terms of that treaty; and that such line embraces all the territory over which this state claims property, sovereignty and jurisdiction; and the executive and Congress of the United States having recognized the validity of that claim in its full extent, this legislature renews such declarations in the most solemn manner; and

*Whereas*, for a series of years, every attempt to adjust the vexed questions in regard to the establishment of the said boundary having proved ineffectual, it has been represented to the government of this State that the minister plenipotentiary and special of her Britannic Majesty, at Washington, has officially announced to the government of the United States, that he has authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such considerations and equivalents as may be thought just and equitable; and, that he is ready to enter upon a negotiation for such conventional line as soon as the government of the United States shall say that it is authorized, and ready on its part, to commence such negotiation; and,

*Whereas*, the government of the United States, not possessing the constitutional power to conclude any such negotiation without the assent of Maine, has invited the

government of this State to co-operate to a certain extent, and in a certain form, in an endeavor to terminate a controversy of so long duration :

*Now*, considering the premises, and believing that the people of this state, after having already manifested a forbearance, honorable to their character, under long continued violations of their rights by a foreign nation ; and, though not disposed to yield to unfounded pretensions, are still willing, in regard to the proposal now made by the general government, to give additional evidence to their fellow citizens throughout the United States of their desire to preserve the peace of this Union, by taking measures to discuss and conclude, if possible, the subject in controversy, in a manner that will secure the honor and interests of the state ; this legislature adopts the following resolutions, with the understanding, however, that, in the event of a failure in such endeavor towards an arrangement, no proceedings thereunder shall be so construed as to prejudice in any manner the rights of the state as they have been herein asserted to exist :

*Resolved*, That there shall be chosen, by ballot, in convention of both branches of the legislature, four persons who are hereby constituted and appointed commissioners, on the part of this state, to repair to the seat of government of the United States, and to confer with the authorities of that government touching a conventional line, or line by agreement, between the state of Maine and the British provinces, having regard to the line designated by the treaty of 1783 as uniformly claimed by this state, and to the declarations and views expressed in the foregoing preamble, and to give the assent of this state to any such conventional line, with such terms, conditions, considerations and equivalents as they shall deem consistent with the honor and interests of the state ; with the understanding

that no such line shall be agreed upon without the unanimous assent of such commissioners.

*Resolved*, That this state cannot regard the relinquishment by the British government of any claim heretofore advanced by it to territory included within the limits of the line of this state as designated by the treaty of 1783 and uniformly claimed by Maine, as a consideration or equivalent within the meaning of these resolutions.

*Resolved*, That the said commissioners be furnished by the governor with evidence of their appointment, under the seal of the state.

*Resolved*, That the governor, by and with the advice and consent of the council, have power to fill any vacancy which may occur in said commission by death, resignation, or otherwise.

*Resolved*, That the said commissioners make return of their doings herein to the governor, to be by him presented to the legislature at its next session.

[Approved May 26, 1842.]

### CLI.

#### EXTRACTS FROM THE TREATY OF WASHINGTON, BETWEEN THE UNITED STATES AND GREAT BRITAIN.

AUGUST 9, 1842.

##### *Sources.*

By the treaty of Washington, August 9, 1842, which is sometimes called from the negotiators the Webster-Ashburton treaty, arrangements were made for the final settlement of boundaries between the different states and the British possessions in North America. Under this treaty Maine and Massachusetts received compensation for all expenses incurred for protection of the frontier, and \$300,000 in "equal moieties" for assent to the new boundary line. With the ratification of the treaty the convention of 1827 terminated.

The treaty is in "House Executive Documents," 27 Cong., 3 sess., No. 2, pp. 25-30; Frederic Murhard, editor, "Nouveau Recueil General de Traites, . . ." (Göttingue, 1843), III., 456-464; "Statutes at Large of the United States of America" (Boston, 1846), VIII., 572-577; "British and Foreign State Papers," (London, 1858), XXX., 360-367; John H. Haswell, compiler, "Treaties and Conventions concluded between the United States of America and Other Powers since July 4, 1776" (Washington, 1889), 432-438; also William Macdonald, "Select Documents illustrative of the History of the United States, 1776-1861" (New York, 1898), 335-343; and Daniel Webster, "Works" (Boston, 1851), VI., 356-365.

Extracts which relate to the northeastern boundary of the United States are reprinted for this compilation from "Executive Documents."

*Text.*

A TREATY

To settle and define the boundaries between the territories of the United States and the possessions of her Britannic Majesty in North America; for the final suppression of the African slave trade; and for the giving up of criminals, fugitives from justice, in certain cases.

Whereas certain portions of the line of boundary between the United States of America and the British dominions in North America, described in the second article of the treaty of peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose: and whereas it is now thought to be for the interest of both parties, that, avoiding further discussion of their respective rights, arising in this respect under the said treaty, they should agree on a conventional line in said portions of the said boundary, such as may be convenient to both parties, with such equivalents and compensations as are deemed just and reasonable: and whereas, by the treaty concluded at Ghent on the 24th

day of December, 1814, between the United States and His Britannic Majesty, an article was agreed to and inserted of the following tenor, viz: "Art. 10. Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice: and whereas both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object:" and whereas, notwithstanding the laws which have at various times been passed by the two governments, and the efforts made to suppress it, that criminal traffic is still prosecuted and carried on: and whereas the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland are determined that, so far as may be in their power, it shall be effectually abolished: and whereas it is found expedient, for the better administration of justice and the prevention of crime within the territories and jurisdiction of the two parties, respectively, that persons committing the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up. The United States of America and Her Britannic Majesty, having resolved to treat on these several subjects, have for that purpose appointed their respective plenipotentiaries to negotiate and conclude a treaty, that is to say, the President of the United States has, on his part, furnished with full powers Daniel Webster, Secretary of State of the United States, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on her part, appointed the Right Honorable Alexander Lord Ashburton, a peer of the said United Kingdom, a member of Her Majesty's most honorable Privy Council, and Her Majesty's Minister Plenipotentiary on a special mission to the United States, who, after a reciprocal communication of

their respective full powers, have agreed to and signed the following articles :

#### ARTICLE I.

It is hereby agreed and declared that the line of boundary shall be as follows: Beginning at the monument at the source of the river St. Croix as designated and agreed to by the commissioners under the fifth article of the treaty of 1794, between the governments of the United States and Great Britain; thence north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent, to its intersection with the river St. John, and to the middle of the channel thereof; thence, up the middle of the main channel of the said river St. John, to the mouth of the river St. Francis; thence, up the middle of the channel of the said river St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence, southwesterly, in a straight line, to a point on the northwest branch of the river St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line, and in the nearest direction—but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the river St. Lawrence from those which fall into the river St. John, then the said point shall be made to recede down the said northwest branch of the river St. John, to a point seven miles in a straight line from the said summit or crest; thence, in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of forty-six degrees and twenty-five minutes north intersects the south west branch of the St. John; thence, southerly, by the said branch, to the source thereof in the highlands

at the Metjarmette portage; thence, down along the said highlands which divide the waters which empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the head of Hall's stream; thence, down the middle of said stream, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins, previously to the year 1774, as the forty-fifth degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British province of Canada on the other; and from said point of intersection, west, along the said dividing line, as heretofore known and understood, to the Iroquois or St. Lawrence river.

### ARTICLE III.

In order to promote the interests and encourage the industry of all the inhabitants of the countries watered by the river St. John and its tributaries, whether living within the State of Maine or the province of New Brunswick, it is agreed that, where, by the provisions of the present treaty, the river St. John is declared to be the line of boundary, the navigation of the said river shall be free and open to both parties, and shall in no way be obstructed by either; that all the produce of the forest, in logs, lumber, timber, boards, staves, or shingles, or of agriculture, not being manufactured, grown on any of those parts of the State of Maine watered by the river St. John, or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said river and its said tributaries, having their source within the State of Maine, to and from the seaport at the mouth of the said river St. John, and to and round the falls of the said river, either by boats, rafts, or other conveyance; that when

within the province of New Brunswick, the said produce shall be dealt with as if it were the produce of the said province; that, in like manner, the inhabitants of the territory of the upper St. John, determined by this treaty to belong to Her Britannic Majesty, shall have free access to and through the river, for their produce, in those parts where the said river runs wholly through the State of Maine: *Provided, always,* That this agreement shall give no right to either party to interfere with any regulations not inconsistent with the terms of this treaty which the Governments, respectively, of Maine or of New Brunswick may make respecting the navigation of the said river, where both banks thereof shall belong to the same party.

#### ARTICLE IV.

All grants of land heretofore made by either party, within the limits of the territory which by this treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions of the party by whom such grants were made; and all equitable possessory claims, arising from a possession and improvement, of any lot or parcel of land, by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this treaty, shall, in like manner, be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land, so described as best to include the improvements made thereon; and in all other respects the two contracting parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them, respectively, which has heretofore been in dispute between them.

## ARTICLE V.

Whereas, in the course of the controversy respecting the disputed territory on the northeastern boundary, some moneys have been received by the authorities of Her Britannic Majesty's province of New Brunswick, with the intention of preventing depredations on the forests of the said territory, which moneys were to be carried to a fund called the "disputed territory fund," the proceeds whereof, it was agreed, should be hereafter paid over to the parties interested, in the proportions to be determined by a final settlement of boundaries : It is hereby agreed, that a correct account of all receipts and payments on the said fund shall be delivered to the Government of the United States, within six months after the ratification of this treaty ; and the proportion of the amount due thereon to the States of Maine and Massachusetts, and any bonds or securities appertaining thereto, shall be paid and delivered over to the Government of the United States ; and the Government of the United States agrees to receive for the use of, and pay over to, the States of Maine and Massachusetts, their respective portions of said fund ; and further to pay and satisfy said States, respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory, and making a survey thereof, in 1838 ; the Government of the United States agreeing, with the States of Maine and Massachusetts, to pay them the further sum of three hundred thousand dollars in equal moieties, on account of their assent to the line of boundary described in this treaty, and in consideration of the conditions and equivalents received therefor, from the Government of Her Britannic Majesty.

## ARTICLE VI.

It is furthermore understood and agreed, that for the

purpose of running and tracing those parts of the line between the source of the St. Croix and the St. Lawrence rivers which will require to be run and ascertained, and for marking the residue of said line by proper monuments on the land, two commissioners shall be appointed, one by the President of the United States, by and with the advice and consent of the Senate thereof, and one by Her Britannic Majesty: and the said commissioners shall meet at Bangor, in the State of Maine, on the first day of May next, or as soon thereafter as may be, and shall proceed to mark the line above described, from the source of the St. Croix to the river St. John; and shall trace, on proper maps, the dividing line along said river, and along the river St. Francis, to the outlet of the Lake Pohenagamook; and, from the outlet of the said lake, they shall ascertain, fix, and mark, by proper and durable monuments on the land, the line described in the first article of this treaty; and the said commissioners shall make to each of their respective Governments a joint report or declaration, under their hands and seals, designating such line of boundary, and shall accompany such report or declaration with maps, certified by them to be true maps of the new boundary.

#### ARTICLE XII.

The present treaty shall be duly ratified, and the mutual exchange of ratifications shall take place in London, within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty, and have hereunto affixed our seals.

Done, in duplicate, at Washington, the ninth day of August, Anno Domini one thousand eight hundred and forty-two.

DAN'L WEBSTER.

[SEAL]

ASHBURTON.

[SEAL]

## CLIV.

## EXTRACTS FROM REPORT OF THE JOINT COMMISSION OF BOUNDARY, BY COMMISSIONERS UNDER THE TREATY OF WASHINGTON.

JANUARY 28, 1847.

*Sources.*

The joint commission of boundary, appointed under the treaty of Washington, began its survey in 1843. In the prosecution of its work on the frontier of Maine three hundred men were employed eighteen months, and the area in dispute was estimated at 7,000,000,000 acres. Although Maine had lost five twelfths of the territory in dispute on the northeastern frontier, it was claimed by the commissioners that compensatory advantages were gained on the northwest.

The report of the commission, which was presented January 28, 1847, is in Senate "Executive Documents" 30 Cong., 1 sess., VIII. No. 71, pp. 3-11; and "Report of the Regents of the University on the Boundaries of the State of New York" (Albany, 1884), II., 55-64.

The extracts relating to the Maine boundaries are reprinted from "Executive Documents."

*Text.*

In obedience with the terms of the treaty, they [the commissioners] met at Bangor in the State of Maine, on the 1st day of May, 1843, where they produced and verified the authority under which they each were respectively to act. They then adjourned, because the weather was not sufficiently open to take the field, to the first of the following month, June, and agreed to meet again at that time at Houlton.

Accordingly, they did meet at that place and began their operations.

It may be desirable to state, at the outset, that, for the sake of convenience, the whole line of boundary marked by the undersigned has been divided, in the mention made of the different portions, into the following grand divisions, viz :

North line, from the source of the St. Croix to the intersection of the St. John.

River St. John, from the intersection of the north line to the mouth of the St. Francis.

River St. Francis, from its mouth to the outlet of Lake Pohenagamook.

Southwest line, from the outlet of Lake Pohenagamook to the northwest branch of the St. John.

South line, from the northwest branch to the parallel of latitude 46 degrees 25 minutes on the southwest branch.

Southwest branch, from the parallel 46 degrees 25 minutes to its source.

Highlands, from the source of the southwest branch of the St. John to the source of Hall's stream.

Hall's stream, from its source to the intersection of the line of Valentine and Collins.

West line, from Hall's stream to the St. Lawrence, near St. Regis, along the line of Valentine and Collins.

To return to the narrative of explorations :

The exploring line of Colonel Bouchette and Mr. Johnson, as directed by the treaty, was traced from the monument at the source of the St. Croix to the intersection of the St. John.

The monument found at the source of the St. Croix, as described in the report of Colonel Bouchette and Mr. Johnson, and the course of their exploring line, was traced by blazes or marks upon the trees.

An old line, cut by the assistant surveyors of Colonel Bouchette and Mr. Johnson, was also found, which terminated about half a mile north of the south branch of the

Meduxnekeag, where, by records to which the undersigned referred, they ascertained that it had been abandoned, because of its deviation from the exploring line of Colonel Bouchette and Mr. Johnson.

After the exploration and re-marking of the north line, it was cut out thirty feet wide. The same was afterwards done in all parts where the boundary line passed through woodland. After thus opening the north line, it was surveyed; and iron posts were erected at intervals to mark it.

The general bearing of the line was rather to the west of the meridian of the monument at the source of the St. Croix. The precise line laid down by the undersigned was determined by successive courses, of which each was made to be as long as was convenient, provided it did not pass out of the opening of thirty feet.

At each angle of deflection an iron monument was erected, and placed anglewise with the line. Other monuments were erected at the crossing of roads, rivers, and at every mile, commencing from the source of the St. Croix. Those which were not intended to mark angles of deflection were placed square with the line.

At the intersection of the St. John by the north line, the river is deep and broad. The boundary runs up the middle channel of the river, as indicated by the maps, dividing the islands as follows:

|         |  |               |
|---------|--|---------------|
| No. 10. | Pine island . . . . .                                | Great Britain |
| No. 11. | Baker's }<br>Turtle }<br>Dagle's } islands . . . . . | Great Britain |
|         | Fourth }<br>Fifth }                                  |               |
| No. 12. | Kennedy's island . . . . .                           | Great Britain |
| No. 13. | Crock's }<br>Cranberry } islands . . . . .           | Great Britain |
|         | Gooseberry }   |               |
| No. 14. | Savage's island . . . . .                            | United States |
| No. 15. | Wheelock's island . . . . .                          | United States |
| No. 16. | Caton's island . . . . .                             | United States |
| No. 17. | Honeywell's island . . . . .                         | United States |
| No. 18. | Savage and Johnson's island . .                      | United States |
| No. 19. | Grew's island . . . . .                              | United States |
| No. 20. | Kendall's island . . . . .                           | Great Britain |

The islands were distributed to Great Britain or to the United States, as they were found to be on the right or left of the deep channel. There was but one doubtful case, La Septieme isle, and that was apportioned to the United States, because the majority of the owners were ascertained to reside on the United States side of the river.

Monuments were erected upon the islands, marking them for Great Britain or the United States, as the case may have been.

After leaving the St. John, the boundary enters the St. Francis, dividing the islands at the mouth of that river in the manner shown in the maps. It then runs up the St. Francis, through the middle of the lakes upon it, to the outlet of Lake Pohenagamook, the third large lake from the mouth of the river. At the outlet, a large monument has been erected.

In order to determine the point on the northwest branch to which the treaty directed that a straight line should be

run from the outlet of Lake Pohenagamook, a survey of that stream was made, and also of the main St. John, in the neighborhood of the mouth of the northwest branch, ascertained by the survey to be ten miles in the nearest direction from it, and the distance was afterward verified by chaining.

It was ascertained, also, in accordance with the provisions of the treaty, by a triangulation of the country towards the Highlands dividing the waters of the St. Lawrence and of the St. John, that more than seven miles intervened between the point selected on the northwest branch and the crest of the dividing ridge. A large iron monument was afterwards erected on the point thus selected, and the space around was cleared and sown with grass-seed. It is a short distance below the outlet of Lake Ishaganalshegeck.

The outlet of Lake Pohenagamook and the point on the northwest branch, designated by the treaty, having been thus ascertained and marked in the spring of 1844, a straight line was run between them. Along that line, which passes entirely through forest, monuments were erected at every mile, at the crossings of the principal streams and rivers, and at the tops of those hills where a transit instrument had been set up to test the straightness of the line.

As soon as the parallel of latitude 46 degrees 25 minutes had been determined on the southwest branch, in the early part of the summer of 1844, a straight line was drawn from the boundary point on the northwest branch to a large monument erected on the left bank of the southwest branch, where it is intersected by the parallel of latitude 46 degrees 25 minutes. The line so drawn crosses the southwest branch once before it reaches the parallel of latitude 46 degrees 25 minutes, and at about half a mile distance from that parallel. There, also, a large monument had been set up on the left bank.

From the intersection of the parallel 46 degrees 25 minutes, the boundary ascends the southwest branch, passes through a lake near its head, and so up a small stream which falls into the lake from the west, to the source of that stream, which has been selected as the source of the southwest branch.

On the southwest branch there are two principal forks, at each of which two monuments have been erected; one on each bank of the river, immediately above the forks, and upon the branch established as the boundary. The maps point out their positions. At the mouth of the small stream selected as the source of the southwest branch, a monument has been erected upon a delta formed by two small outlets. Above those outlets three other monuments have been placed, at intervals, upon the same stream.

Upon the crest of the dividing ridge, very close to the source of the southwest branch, a monument has been erected. It is the first point in the Highlands, and from it the boundary runs along the crest, in a southerly direction, passing near the southeastern shore of the Portage lake, and so on to a large monument erected on a small eminence on the east side of the Kennebec road. Thence it passes through a dwelling-house, called Tachereau's, which was standing there at the time the line was run; so by a tortuous course, it runs to the top of the Sandy Stream mountain; thence, inclining to the southwest, it runs over Hog's Back the first, as shown in the map; thence towards Hog's back the second, which it leaves on the north side. Further on, at the head of Leech lake, there is a stream which divides its waters and flows both into Canada and into the United States. The boundary has been made to run up that stream a short distance from the fork, where the waters divide to a second fork; thence between the streams which unite to form that fork, and then to ascend again the dividing

ridge. A monument has been erected at the fork first mentioned, where the waters divide.

As the boundary approaches the valley of Spider river, it bends to the southeast, and, by a wide circuit over high and steep hills, it turns the head of Spider river; thence it bends to the northwest, until it approaches within about four miles of Lake Megantic; thence it turns again south, having the valley of Arnold's river on the right, and of Dead river on the left. It leaves Gasferd mountain in Canada, threads its way over very high ground between the head of Arnold's river and the tributaries of the Magalloway; inclines them to the north, to the west, over very rocky, mountainous, and difficult country, leaving Gipp's Peak in the United States, and turns by a sharp angle at Saddle Back, to the south. After that it again inclines to the west, and then to the south, and again to the west, and passes the head of the Connecticut. . . .

In conclusion, the undersigned have the honor to report, that the line of boundary described in the foregoing statement has been run, marked, and surveyed, and the accompanying maps faithfully constructed from that survey.

The undersigned take leave to add, that the most perfect harmony has subsisted between the two commissions, from first to last, and that no differences have arisen between the undersigned in the execution of the duties entrusted to them.

Signed and sealed in duplicate, at the city of Washington, this twenty-eighth day of June, in the year of our Lord one thousand eight hundred and forty-seven.

J. B. BUCKRALL ESTCOURT, *Lt. Col.* [SEAL.]  
*H. B. M. Commissioner.*

ALBERT SMITH, [SEAL.]  
*United States Commissioner.*

## CLV.

ACT FOR THE SETTLEMENT OF BOUNDARIES BE-  
TWEEN THE PROVINCES OF CANADA AND  
NEW BRUNSWICK, BY THE PARLIAMENT  
OF GREAT BRITAIN.*Sources.*

After the commissioners of boundary under the treaty of Washington had made a report to their respective governments an act for the settlement of boundaries between the provinces of Canada and New Brunswick was passed by the parliament of Great Britain August 7, 1851, and received her Majesty's assent; February 18, 1852, the general assembly of the province of New Brunswick passed an act "to annex the territory awarded by arbitrators and to alter boundary lines."

The act for the settlement of boundaries is found in "The Statutes of the United Kingdom of Great Britain and Ireland" (London, 1851), XCI., 304, 305; and as an "inclosure" with despatch from Earl Gray to Governor-General, the Earl of Elgin and Kincardine, in "Journals of the Legislative Assembly of the Province of Canada" (1852-53), Appendix Z. Z., No. 11.

Since the act describes the western boundary of New Brunswick it is inserted among the documents which relate to the territorial history of Maine.

*Text.*

WHEREAS certain Disputes have existed respecting the Boundary Line between the Provinces of *Canada* and *New Brunswick* in *North America*; and pending such Disputes certain Funds have arisen from the disputed Territory, and have been received by the governments of such Provinces respectively: And whereas, with a view to the Settlement of such Disputes, the Governor General of *Canada* and the Lieutenant Governor of *New Brunswick*, by the Advice of

their respective Councils, agreed that the Matter in dispute should be referred to Arbitrators, who should be directed to report to Her Majesty's Government, and that such Governor General and Lieutenant Governor should each name an Arbitrator on behalf of the said respective Provinces, and that such Arbitrators should name a Third Arbitrator, the Award to be made by the Three Arbitrators or any Two of them; and it was also agreed by such Governor General and Lieutenant Governor, with the Advice aforesaid, that the net Proceeds of the Funds in the Hands of the said Governments arising from the disputed Territory should be applied, first, to defray the Expenses of the Arbitration, second, to defray the necessary Expenses of running the (Boundary) Line as settled, (in case such Funds should prove insufficient, the Expenses to be borne equally by the respective Governments,) and, third, the Balance of such Funds to the Improvement of the Land and Water Communication between the Great Falls of the *Saint-John* and the *Saint Laurence*: And whereas, in pursuance of the agreement in this Behalf, the Governor General of *Canada* named *Thomas Falconer* Esquire to be One of the said Arbitrators, and the Lieutenant Governor of *New Brunswick* named *Travers Twiss* Doctor of Laws to be another of the said Arbitrators, and the said *Thomas Falconer* and *Travers Twiss* named the Right Honourable *Stephen Lushington*, Judge of the Admiralty Court, to act as the Third Arbitrator: And whereas on the Seventeenth Day of *April* One thousand eight hundred and fifty-one the said *Stephen Lushington* and *Travers Twiss* made an Award concerning the said Boundary, and transmitted the same, together with a Plan therein referred to, to the Right Honourable Earl *Grey*, One of Her Majesties Principal Secretaries of State, and such Award is in the following Terms:

“ That *New Brunswick* shall be bounded on the West by the Boundary of the United States, as traced by the Commissioners of Boundary under the Treaty of *Washington* dated *August*, 1842, from the Source of the *Saint Croix* to a Point near the Outlet of Lake *Pech-la-wee-ka-co-nies* or Lake *Beau*, marked A. in the accompanying Copy of a Part of Plan 17 of the survey of the Boundary under the above Treaty; thence by a straight Line connecting that Point with another Point to be determined at the Distance of One Mile due South from the southernmost Point of *Long Lake*; thence by a straight Line drawn to the Southernmost Point of the Fiefs *Madawaska* and *Temiscouta*, and along the South-eastern Boundary of those Fiefs to the South-east Angle of the same; thence by a meridional Line Northwards till it meets a Line running East and West, and tangent to the Height of Land dividing the Waters flowing into the River *Rimouski* from those tributary to the *Saint John*, thence along this tangent Line Eastward until it meets another meridional Line tangent to the Height of Land dividing Waters flowing into the River *Rimouski* from those flowing into the *Restigouche* River; thence along this meridional Line to the 48th Parallel of Latitude; thence along that Parallel to the *Mistouche* River; and thence down the Centre of the stream of that River to the *Restigouche*; thence down the Centre of the Stream of the *Restigouche* to its mouth in the Bay of *Chaleurs*; and thence through the middle of that Bay to the Gulf of the *Saint Lawrence*; the Islands in the said Rivers *Mistonche* and *Restigouche* to the mouth of the latter River at *Dalhousie* being given to *New Brunswick*:” ‘And whereas it is expedient that the said Boundary should be settled in conformity with the said Award:’ now, therefore, be it enacted by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this

present Parliament assembled, and by the Authority of the same, as follows :

I. *New Brunswick* shall be bounded as in the said Award mentioned ; and it shall be lawful for One of Her Majesty's Principal Secretaries of State to appoint such Person or Persons as he may think fit to ascertain, define, and mark the Boundary Line between the said Province of *New Brunswick* and the said Province of *Canada*, according to the Intent of the said Award.

II. The net Proceeds of the Funds in the Hands of the local Governments of the said Provinces of *Canada* and *New Brunswick* respectively arising from the Territory heretofore in dispute between such Provinces shall be applied according to the Terms herein-before mentioned of the said Agreement concerning the same.

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## CLVI.

### ACT FOR THE SALE OF PUBLIC LANDS IN THE STATE OF MAINE, BY THE GENERAL COURT OF MASSACHUSETTS.

MAY 25, 1853.

#### *Sources.*

Although there had been attempts to dispose of the public lands within the State of Maine which belonged to the commonwealth of Massachusetts, the act passed by the General Court, May 25, 1853, in response to proposals made by the State of Maine through Governor Hubbard, was the first decisive step. When, in accordance with the act, an advertisement for the sale of public lands had been inserted by the land agent of Massachusetts in the leading papers of both states, and sealed proposals were called for, it was evident that Massachusetts would sell her public lands in Maine at the earliest opportunity.

The act of sale is reprinted from "Acts and Resolves passed by the General Court of Massachusetts, in the year 1853" (Boston, 1853), 618, 619.

*Text.*

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

SECT. 1. The land agent of this commonwealth, with the concurrence of the commissioners appointed by the act of eighteen hundred and fifty, chapter 307, and the acts of 1851, chapter 190, is hereby authorized to sell, for such price and on such terms as they may deem for the interest of the commonwealth, all the timber and lands now remaining unsold in the state of Maine, and belonging to this commonwealth: *provided, however,* that in case of the sale of said timber and lands, or of any part thereof, on credit, the security to be received for the payment of the purchase money shall be made entirely satisfactory to said land agent and commissioners, wholly independent of any lien upon said timber or lands.

SECT. 2. Prior to the sale of the fee in any township or tract of land to any other party excepting the state of Maine, it shall be the duty of the land agent to offer the same to such person or persons as have already become purchasers of the timber on such township or tract of land, at such prices and on such terms as the said land agent and the commissioners may deem reasonable, and such purchasers of the timber shall have a reasonable time, not exceeding three months, to determine whether they will become the purchasers of the fee in such township or tracts.

SECT. 3. The land agent shall give public notice that all the public lands and timber now belonging to this commonwealth in the state of Maine, are for sale, in parcels not exceeding two townships to any one person or party; and it

shall not be lawful to sell more than two townships to any one purchaser or party until after the first day of February of the year one thousand eight hundred and fifty-four: *provided, however,* that this limitation shall not apply to sales to the state of Maine, nor to sales to such parties as may have already become purchasers of the timber, to whom the fee is to be offered under the provisions of the second section of this act.

SECT. 4. Prior to making any sale of such lands, or of the timber thereon, as may now be held in severalty by Massachusetts or jointly with the state of Maine, the land agent and commissioners aforesaid shall offer to the state of Maine, for such time and on such terms as they shall deem reasonable, the right to become the purchaser thereof.

SECT. 5. After the first day of February of the year one thousand eight hundred and fifty-four, it shall be lawful for the land agent and commissioners to sell all the timber and lands in the state of Maine, belonging to this commonwealth, to any one or more purchaser or purchasers.

SECT. 6. So much of the third section of the act of 1851, chapter 190, as forbids the sale of the fee in the public lands, is hereby repealed.

SECT. 7. This act shall take effect from and after its passage.

[Approved by the Governor, May 25, 1853.]

## CLVII.

RESOLVE FOR PURCHASE OF THE RESIDUE OF PUBLIC LANDS, BY THE THIRTY-SECOND LEGISLATURE OF THE STATE OF MAINE  
IN EXTRA SESSION.

SEPTEMBER 28, 1853.

*Sources.*

The definite action taken by the General Court of Massachusetts during the session of 1853 made it necessary for Maine to take a decisive and final step to retain the land that really belonged to her by territorial right. Massachusetts was no more desirous to dispose of the public land than Maine was to secure it. Although in 1832, in response to a report presented to the legislature, a resolve had been passed in favor of purchasing, the unsettled condition of the frontier had delayed action.

A contract for the purchase was arranged by commissioners in Boston, July 23, 1853, which was ratified in September.

The resolve was printed in "Acts and Resolves passed by the Extra Session of the Thirty-second Legislature, 1853, and the Thirty-Third Legislature of the State of Maine" (Augusta, 1854), ch. LXXXII, pp. 87, 88.

*Text.*

*Resolved*, That the contract for the purchase of all the lands belonging to the Commonwealth of Massachusetts situate in the State of Maine, entered into at Boston on the twenty-third day of July, eighteen hundred and fifty-three, by and between E. M. Wright, Jacob H. Loud, David Wilder, junior, commissioners, and Samuel Warner, junior, land agent of the Commonwealth of Massachusetts, in behalf of said commonwealth, and Reuel Williams, W. P. Fessenden, and Elijah L. Hamlin, commissioners of Maine

in behalf of said state, be and the same is hereby ratified and confirmed.

*Resolved*, That to provide for the payment of the purchase money for said lands, there be and hereby is appropriated out of any money in the treasury not otherwise appropriated the sum of one hundred twelve thousand five hundred dollars, and for the balance thereof, being two hundred and fifty thousand dollars, the treasurer of state is hereby authorized and directed to issue payable to the treasurer of said commonwealth or his successor in office, in Boston, certificates of stock therefor in sums not less than ten thousand dollars each, with coupons for each year's interest at the rate of five per cent. per annum attached thereto, which certificates shall be signed by him as treasurer, countersigned by the governor and attested by the secretary of state with the seal of the state, but the coupons shall be signed by the treasurer only—and said stock shall be redeemable at such times as, in the opinion of the treasurer, shall be most advantageous to the state, not exceeding twenty years.

*Resolved*, That the governor of this state, by and with the advice and consent of council, be, and he hereby is, authorized to draw his warrant on the treasurer of state for the sum of one hundred twelve thousand five hundred dollars, in favor of the treasurer of the Commonwealth of Massachusetts payable on the fifth day of October next. And the treasurer of state is also authorized and directed to deliver to the treasurer of said commonwealth the certificates of stock provided for by the second resolve, bearing date the fifth day of October, eighteen hundred and fifty-three, *provided* the authorities of said commonwealth shall be ready to deliver a good and sufficient deed to convey to the State of Maine the lands belonging to said commonwealth, lying in the State of Maine, including all claims

upon settlers, according to the contract of said commissioners mentioned in the first resolve, which said deed shall first be examined and approved by the commissioners on the part of the State of Maine.

[Approved September 28, 1853.]

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### CLVIII.

#### EXTRACTS FROM THE RECIPROCITY TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN.

JUNE 5, 1854.

##### *Sources.*

By the treaty between the United States and Great Britain, June 5, 1854, not only were provisions made for a commission to adjust disputes in relation to fisheries, but rights of commerce, especially of lumbermen on the river St. John, were also regulated. In practice, however, it was found that the "Reciprocity Treaty" was detrimental to the agricultural interests of Maine. In 1862 and the following years the legislature passed resolutions in favor of a new arrangement "which shall be more just and equal, and properly guard and protect the great interests of this State which are injuriously affected by the present treaty." The Reciprocity treaty, however, continued in force until March 17, 1866, when it was terminated in accordance with provisions in Article V.

The treaty is in "Statutes at Large of the United States of America" (Boston, 1855, X., 1089-1092; and John H. Haswell, compiler, "Treaties and Conventions concluded between the United States of America and Other Powers since July 4, 1776" (Washington, 1889), 448-453.

The articles relating to fishing and commerce are reprinted from "Statutes at Large."

##### *Text.*

ARTICLE 1. It is agreed by the high contracting parties that, in addition to the liberty secured to the United States

fishermen by the abovementioned convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the coasts and shores of those colonies and the islands thereof, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish: provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coast in their occupancy for the same purpose.

It is understood that the abovementioned liberty applies solely to the sea-fishery, and that the salmon and shad fisheries, and all fisheries in rivers and the mouths of rivers, are hereby reserved, exclusively, for British fishermen.

And it is further agreed, that in order to prevent or settle any disputes as to the places to which the reservation of exclusive right to British fishermen, contained in this article, and that of fishermen in the United States, contained in the next succeeding article, apply, each of the high contracting parties, on the application of either to the other, shall, within six months thereafter, appoint a commissioner. The said commissioners, before proceeding to any business shall make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such places as are intended to be reserved and excluded

from the common liberty of fishing, under this and the next succeeding article, and such declaration shall be entered on the record of their proceedings.

The commissioners shall name some third person to act as an arbitrator or umpire in any case or cases on which they may themselves differ in opinion. If they should not be able to agree upon the name of some such third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the arbitrator and umpire in cases of difference or disagreement between the commissioners. The person so to be chosen to be arbitrator or umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of either of the commissioners, or of the arbitrator or umpire, or of their or his omitting, declining, or ceasing to act as such commissioner, arbitrator or umpire, another and different person shall be appointed or named as aforesaid to act as such commissioner, arbitrator, or umpire, in the place and stead of the person so originally appointed or named as aforesaid, and shall make and subscribe such declaration as aforesaid.

Such commissioners shall proceed to examine the coasts of the North American provinces and of the United States, embraced within the provisions of the first and second articles of this treaty, and shall designate the places reserved by the said articles from the common right of fishing therein.

The decision of the commissioners and of the arbitrator or umpire shall be given in writing in such case and shall be signed by them respectively.

The high contracting parties hereby solemnly engage to consider the decision of the commissioners conjointly, or of

the arbitrator or umpire, as the case may be, as absolutely final and conclusive in each case decided upon by them or him respectively.

**ARTICLE 2.** It is agreed by the high contracting parties that British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the 36th parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbors, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish: provided that in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the abovementioned liberty applies solely to the sea fishery, and salmon and shad fisheries, and all fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

**ARTICLE 3.** It is agreed that the articles enumerated in the schedule hereunto annexed, being the growth and produce of the aforesaid British colonies or of the United States, shall be admitted into each country, respectively, free from duty:

**ARTICLE 4.**

And it is further agreed, that no export duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the River St. John and its tributaries, and floated down that river to the sea, when the same is

shipped to the United States from the province of New Brunswick.

ARTICLE 5. . . . .

The present treaty shall take effect as soon as the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and by the Provincial Parliaments of those of the British North American colonies which are affected by this treaty on the one hand, and by the Congress of the United States on the other. Such assent having been given, the treaty shall remain in force for ten years from the date at which it may come into operation, and further, until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards.

It is clearly understood, however that this stipulation is not intended to affect the reservation made by article 4 of the present treaty, with regard to the right of temporarily suspending the operation of articles 3 and 4 thereof.

ARTICLE 7. The present treaty shall be duly ratified, and the mutual exchange of ratifications shall take place in Washington, within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty, and have hereunto affixed our seals.

Done in triplicate, at Washington, the fifth day of June, Anno Domini one thousand eight hundred and fifty-four.

W. L. MARCY, [L. S.]  
ELGIN AND KINCARDINO [L. S.]

## CLIX.

EXTRACTS FROM REPORT OF A SURVEY OF THE  
EASTERN BOUNDARY OF NEW HAMPSHIRE,  
BY THE SURVEYORS APPOINTED  
BY THE TWO STATES.

DECEMBER 21, 1858.

*Sources.*

Although the boundary line between Maine and New Hampshire had been carefully surveyed in 1828, forest fires had obliterated the old landmarks, and the adjustment of boundary difficulties with Great Britain on the northern line had made it possible to estimate the value of lands in that section. To avoid litigation in 1858 the legislative bodies in both states passed enactments for a new survey from Fryeburg, Maine, to the Canada line.

Extracts from the report of the surveyors are reprinted from John M. Wilson and Henry O. Kent, "Report on the Eastern Boundary of New Hampshire" (Concord, 1859), 17-24; it is also in Henry Gannett, "Boundaries of the United States and of the several States and Territories . . ." (Washington, 1885), 38-40.

During the year 1874 a later survey of the line was made for the purpose of correcting any variations, and marking the boundaries; that report is printed by J. H. Huntington and A. P. Gordon "Report of the Survey of the Boundary between Maine and New Hampshire" (Concord, 1875), 6-9.

The text adopted for the survey of 1858 is that of the printed "Reports."

*Text.*

. . . . .  
The resolutions cited above authorized the marking of the dividing line, between the two States, from the town of Fryeburg to the Canada line; and as that line was marked by former commissioners in 1828, the undersigned did not feel themselves at liberty to make alterations, or to

straighten it where curvatures existed; but simply to mark anew, and where the original monuments were effaced and destroyed, to connect by a straight line the two nearest remaining monuments of the reliability of which there could be no doubt. During the continuance of the work, offsets were discovered, but the existence of the distinguishing mark of the old survey, left no doubt of their authenticity, and as the commissioners under whose direction the work was formerly done, established the line marked by them as the true line in the words following, "The whole course of the line from the Androscoggin river, (North) was re-marked by spotting the old marked trees, and crossing the spots, and marking others on the route, and the line as above surveyed and described, we agree to be the true boundary line of said States, and the above described marks and monuments we established to designate the same, and that the said line hereafter remain the boundary line between the States, unless the Legislature of either State shall, at the first session after the execution of this agreement, by resolve, disapprove of the same;" and the Legislature having by their action ratified the agreement, the line, however irregular, became the boundary between the two States, and the undersigned, in conformity with their instructions, felt it their duty to follow it. The report following describes the position and course of the line as re-marked, and the old marks and monuments, as well as those made and established by us. . . . . The point commeneed at is an iron post situated on a line run in accordance with the "Treaty of Washington, of August 9th, 1842," as the boundary between the United States and the province of Canada, at the corners of the States of Maine and New Hampshire. On the south face of said post are the words, "Albert Smith, U. S. Comssr;" on the north face, "Lt. Col. I. B. B. Eastcourt, H. B. M. Comssr;" on the west

face, "Boundary, Aug. 9th, 1842," on the east face, "Treaty of Washington." To the marks we added, on the southern half of the west face, "H. O. Kent;" a large flat stone was placed at the southern face of the monument, and marked, "1858—N. H., Me.;" on either side of a line cut in said stone, bearing the direction of the State line, viz: south, eight degrees west. From this point the line is south, eight degrees west, seventeen rods, seven links, to a large yellow birch stubb, the northern terminus of the former survey; thence one hundred and twenty-six rods to a beaver pond; thence seventy-eight rods to the northwesterly branch of the Magalloway, known as Kent River; thence two hundred and forty-two rods to another branch of the Magalloway; thence one hundred and eighty-six rods to a certain steep precipice, perpendicular on its southern face; thence three hundred and forty-six rods, to a branch of the Magalloway River; thence two hundred and sixty rods to another branch of the same; thence five hundred and forty rods to a precipice, the southern side of Mount Abbott; thence four hundred rods to the summit of Mount Carmel; thence nine hundred and twenty rods, and across four streams, to the summit of Prospect Hill. On this distance we marked a yellow birch tree, "H. O. Kent, Sept. 20th, 1858," and the names of the remainder of the party; thence four hundred rods to another branch of the Magalloway; thence three hundred and thirty-two rods to the Little Magalloway River; thence two thousand one hundred and twenty rods across Bosebuck mountain to a branch of said river. On this distance, at the north-west corner of township No. 5, range 3, in Maine, we marked a white birch tree, "N. H., M.," and on its north and south sides, "IV., III." Thirty rods from the summit of Bosebuck mountain, and on its northern slope, we erected a stone monument, marked "N., M.;" thence three hundred

and fifty rods to the Little Diamond River, or Abbot Brook; thence four hundred and sixty rods to the north-west corner of township No. 5, range 2, in Maine. On this distance we found an ancient yellow birch tree, marked "1789—35 m.;" to those marks we added "1858;" thence one thousand eight hundred and six rods, to the south-west corner of the same township. On this distance, at the north-east corner of Dartmouth College Second Grant, in N. H., we marked a large, yellow birch tree, "Me., J. M. W., 1858; N. H., H. O. K.;" thence, and across an open bog four hundred and forty-four rods to the north bank of the Magalloway River, to a white maple tree marked "N. H." "M.;" thence ten rods across said river to a large pine tree, marked "M." "N. H.;" thence and across a second open bog, two hundred and ninety rods to the same river, and to a large elm stubb; thence ten rods across said river; thence two hundred and sixty-four rods to a spruce post marked "M." "N. H." "W. L." "D. C.," being the south-east corner of Dartmouth College Second Grant; thence one hundred and sixty-two rods to the Magalloway River; thence ten rods across said river to a stone monument on its southerly side, standing about three feet above the ground, and marked "M." "N. H.;" thence to the original line tree nearest to the clearing of the home farm of Z. F. Durkee, Esq. The course of the line the entire distance from the iron post at the national boundary to this point, bears south eight degrees west; thence across said clearing, the old line marks being gone, south eleven degrees and thirty minutes west, one hundred and sixty-eight rods, to the old crossed trees in the woods south of Pond Brook; thence from Pond Brook, south eight degrees west, seven hundred and fourteen rods to the north bay of Umbagog Lake, and to a cedar tree marked "M." "N." To this we added "1858."

On this distance, near the corner of Errol and Wentworth's Location, which is a cedar post in a pile of stones, we marked a maple tree, "M. 1858;" "N. H., 1858;" thence south ten degrees and thirty minutes west, one thousand one hundred and sixty-five rods, across the north bay of said lake to the old marked trees on the southern shore; thence south eight degrees west, two hundred and six rods, across a peninsula to a cedar tree marked, "M.," "N. H." A large stone also, on the lake shore, was marked "M.", N. H.;" thence, same course, two hundred and twenty-five rods across a bay of said lake; thence, same course, ten rods across a peninsula; thence same course, thirty-four rods across a cove; thence, same course, five hundred and sixty-seven rods to Cambridge River; thence, same course, eight rods across said river to a white maple stubb; thence, same course, two hundred and ten rods to a stone monument on the north side of the road leading from Andover, Me., to Colebrook, N. H.; thence, same course, to the north edge of the burnt land in Grafton and Success; thence south, eleven degrees west, across ten streams, and the Chickwalnepy River, or Silver Stream, to the old line trees bearing the crosses, easterly of the south end of Success Pond; thence, on the same course south, ten degrees west, following the old mark, to an ash tree bearing the original cross, standing a few rods north of the house of the late Daniel Ingalls, in Shelburne; thence south, eleven degrees west, to a stone monument by the road on the north side of the Androscoggin River, and to the north bank of said river, the whole distance from the stone monument near Umbagog Lake, to the north bank of the Androscoggin River, being six thousand six hundred and sixty-two rods; thence south, eleven degrees west, eighteen rods across said river; thence same course, one hundred rods, crossing the track of the Grand Trunk Rail-

road, to a stone monument on the north side of the road leading from Lancaster, N. H., to Bethel, Me.; thence, same course, seven hundred sixty-five rods to a hemlock tree on the south bank of Wild River: thence south, sixty-six degrees, thirty minutes west, thirty-four rods on an offset of the old survey along said south bank to the old line trees; thence following the old line trees south, eleven degrees west, passing the south-east corner of Shelburne, eight hundred ninety-eight rods to the top of Mount Royee, the whole distance being one thousand eight hundred and eighty-one rods. One mile north of the summit of Mount Royee we marked a beech tree, "N. H." "M." "1858;" thence to a large stone marked "N. H." "M."; thence south ten degrees, fifteen minutes west, to a stone monument on the east side of the Cold River Road. On this distance, at the foot of the first precipice on the northern face of Mount Royee, a white birch tree was marked "1858." Further on and east of a bare ledge, a white birch tree was marked "1858," and near it, on the line, a pile of stones was erected. At the first clearing, near the north end of a stone fence, a large stone was marked "M. N. H.;" thence, along a stone fence and across a road, through a piece of new growth, and again crossing the road, then following another stone fence on the east side of the road, passing through a field and by the end of another stone fence; thence crossing a road near the west end of a bridge over Cold River; then following the valley of that stream and crossing it six times; then crossing another road where we placed a stone monument; then through a field, striking an old stump and pile of stones, shown as the old line, and passing between a house and barn—and through the western edge of a grove of trees, to the stone monument near the house of Mr. Eastman—the whole distance being one thousand one hundred and ninety rods;

thence, one thousand six hundred and thirty rods, to a stone monument standing in the meadow, sixty rods north of the north shore of Kimball's Pond, in Fryburgh, but as the towns of Fryburgh and Stowe have erected no durable monuments on the State's line at their respective corner, we deemed it advisable, under our instructions, to proceed as far south as at least to pass the said corner, and to complete the work at some well defined monument of the old survey. This course bore from the monument to and across an open bog, south, twelve degrees west; thence on the old trees south, nine degrees west, to a stone monument erected by us, near the house of James Clay, in Chatham, and on the north side of the road leading from Stowe to Chatham corners,—said monument is marked "M. N. H., 1858,"; thence on the old line south, eleven degrees west, to the road leading from North Fryburgh to Chatham, at which point we placed a stone monument; thence south, eleven degrees west—to the north-west corner of Fryburgh—being a stake in a pile of stones, in a piece of low ground, southerly of the house of Capt. Bryant, and to the old monument sixty rods north of Kimball's Pond. On the bank north of said corner, on the south side of the road, and near Capt. Bryant's house, we placed a stone monument, marked "M. N. H." "1858."

The different courses laid down in the foregoing Report, are the present bearings of the compass when placed on the line established in 1828. By referring to the report of that survey, it will be perceived that the entire distance from Wentworth's Location to the National Boundary, the bearing is the same, no variation existing,—while from that point southward, a variation of from one to four degrees was discovered, as will be seen by a comparison of the two Reports. The line being now so well defined, both by the old monuments existing, and those added by us, we deemed

best, under the tenor of the resolution, to follow the line by the compass, and give its bearings at the present time, rather than to make repeated experiments upon the variation between the true and magnetic meridian, which would be of no practical benefit, as the line, as now marked, must be followed until the States by special enactment shall effect a change in its location.

As the resolution accompanying, contemplated specially, the *marking* of the line, and as the distance between the termini was formerly chained, and all the courses marked by monuments at present enduring, we did not feel ourselves authorized to incur the additional expense of chaining anew the whole distance.

All doubtful points were, however, located, and all monuments placed in accordance with the Report above, and the distances, when added, as they have been by us, to the distances laid down in the former Report, give a correct series of courses and distances between the two extremities of the line.

The line was marked by the erection of stone monuments at all road crossings and noticeable points where none before existed, and by retouching the old monuments. Many large and prominent trees were blazed and marked on either side "N. H." "M.", and the names of various members of the party were added, together with the date, "1858."

Aside from the monuments described above, the whole course of the line was marked by spotting the old marked trees, and all others on the route, and by marking the spots with a double cross, X thus, and the under brush was cleared away so as to enable one to follow the line by a continual observance of the spots.

It is believed that the line above described is now sufficiently marked and designated to afford a distinguishable and permanent dividing line, which will subserve all the

purposes of the two States equally well as a more expensive system of monuments.

All of which is respectfully submitted

JOHN M. WILSON,

*On the part of Maine.*

HENRY O. KENT,

*On the part of New Hampshire.*

Dated the 21st day of      }  
December, A. D. 1858.      }

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## CLX.

### ACT TO PROVIDE MEANS FOR DEFENCE OF THE NORTHEASTERN FRONTIER, BY THE THIRTY- THIRD LEGISLATURE OF THE STATE OF MAINE.

MARCH 24, 1864.

#### *Sources.*

After the adjustment of boundary difficulties by the treaty of Washington, the citizens of Maine were awake to the importance of frontier defences. Not only was a garrison needed at Fort Kent, but a military road was demanded. Different memorials and petitions were presented both to the State legislature and to the secretary of war. Although the legislature made occasional appropriations to erect bridges on the road from the American line, it was not until 1864 that any fully defined plan was reached. In the construction of a military railway the state was to furnish aid by a grant of public lands which were still a fruitful source of revenue; in 1865 Massachusetts assigned to Maine all remaining claims held jointly by the two states against the federal government. As the act of 1864 provided also for immigration on favorable terms it has a two-fold relation to the interests of the state of Maine. Subsequent

legislative enactments illustrate the further progress of the European and North American Railway scheme.

The text adopted is that of "Acts and Resolves of the Forty-third Legislature of the State of Maine" (Augusta, 1864), Ch. 401, pp., 387-390.

*Text.*

*Be it enacted by the Senate and House of Representatives in Legislature assembled,* as follows :

SECR. 1. Whereas, the legislature of Maine by resolves unanimously adopted and approved by the Governor on the thirty-first day of January, in the year of our Lord one thousand eight hundred and sixty-three, asked protection of the United States government in the language following : "Maine expects and earnestly demands, that measures be taken at once by the general government for the protection of its northeastern frontier, and that this can be accomplished only by a military railroad from Bangor to the St. John river," it is hereby enacted, that to aid in the construction of such a line of railway, the proceeds of the sale of timber on ten townships of the public lands of this state, which townships shall be designated under the direction of the governor, state treasurer and land agent, who are constituted a board for this purpose, shall be paid into the treasury of the state for the use of the European and North American Railway Company, upon the terms and conditions hereinafter expressed, and the timber on these ten townships shall be advertised in a newspaper having the largest circulation in the counties where located, and three months in two newspapers having the largest circulation in the cities of Portland and Bangor. Sealed proposals shall be received by the governor, state treasurer and land agent, and a record of the proposals be made and kept in the land office, which shall be open to any one after the day of sale, and said sale shall be in one-eighth sections of townships; and all moneys, securities or lands received on account of

the claims of Maine upon the United States government which accrued prior to eighteen hundred and sixty, viz: The claims for interest on moneys heretofore received from the United States for the value of lands assigned to occupants under the fourth article of the treaty of Washington, and for timber cut on the territory formerly in dispute between the United States and Great Britain, after deducting the expenses for obtaining the same, shall be paid into the treasury of the state for the use of the European and North American Railway Company, on the terms and conditions hereinafter expressed.

SECT. 2. As soon as said railway company shall have constructed and completed its line by the running of cars from Bangor to Lincoln, and have notified the governor of the state of that fact, and that said company has located its line to the boundary of New Brunswick, and is ready to proceed with the further construction of said railway, it shall be lawful for the governor to approve of said location, and to notify said company of the same, and thereupon the said company shall be entitled to the benefit of the provisions of this act; and thereafter as soon as said company shall construct and complete by the running of cars, ten additional miles of railway from Lincoln toward the mouth of the Mattawamkeag, the governor shall pay over to said company such sum as may then be in the hands of the treasurer derived from the proceeds of such sales of timber; and of such claims, at the rate of ten thousand dollars per mile for said ten miles, or *pro rata* for any sum then in hand, less than at the rate of ten thousand dollars per mile, and so on from time to time at the rate of ten thousand dollars per mile, or *pro rata*, as fast as an additional ten miles is completed, until the line shall be completed from Bangor to the boundary line of New Brunswick; and as soon as said railway company shall locate a line from some point in

embranchment thereof in a northerly direction toward the Aroostook river, and complete ten miles from said main line by the running of cars thereon, the governor shall pay to said company at the rate of ten thousand dollars per mile, or *pro rata*, for each mile of railway so built and completed from their main line in a northerly direction, from the proceeds of the lands and claims hereinbefore set forth, and so on from time to time as an additional ten miles shall be completed by the running of cars, until the entire line of said railway shall be completed to the northern boundary of the state, with a branch line to the St. John river at Woodstock.

SECT. 3. In case the commonwealth of Massachusetts shall assign and transfer to the European and North American Railway Company, or to the state of Maine in trust for said company, the claims jointly held by her with Maine against the general government, to aid the construction of said railroad, and also release and discharge or assign and transfer the balance due from the state of Maine for the purchase of her interests in the public lands lying in Maine, under date October fifth, eighteen hundred and fifty-three, it shall be lawful for the governor, state treasurer and land agent to transfer to said company all the public lands lying on waters of the Penobscot and St. John River, for the uses and purposes set forth in this act. *Provided, however,* that there shall be excepted from said conveyance and from the operations of this act, all timber and lumber and lands granted or voted by the present or any preceding legislature, reserving to the state the right to locate such grants within the present year of our Lord eighteen hundred and sixty-four, or within the time or times limited therefor in the several acts or resolves granting the same, all lands heretofore reserved or set apart for public schools, and all lands set apart and designated for settlement under existing

laws; and all the lands set apart for the purposes of settlement, shall be sold to settlers, upon the same terms and conditions by the land agent, as is now authorized by law. And it is further provided, that all lands conveyed to said company under this act, which are in the opinion of the governor, state treasurer and land agent, suitable for settlement, shall be surveyed into lots by said company, of suitable sizes for the purposes of settlement, not exceeding one hundred and sixty acres to any one lot, which lands shall be open to settlers at a price not exceeding one dollar per acre, on condition of a continued residence thereon for five years, and performance of such settling duties as are now required by the state. And said company is charged with the duty of encouraging immigration into the state, and shall be required to appoint a suitable emigrant agent, and annually publish such plans, statements and other information, as shall give to the public a better knowledge of the extent, value and situation of the public lands of Maine, now open for settlement, and cause this information to be printed in our own and other languages, and distributed into other states of this Union, and into foreign lands. And the legislature of this state shall have the right at all times to inquire into the manner in which these trusts are executed, and to pass any laws that may be necessary, and to impose fines and penalties to secure acompliance with the provisions, liabilities and duties herein before set forth and enjoined. *Providing and excepting*, that no lands belonging to the state of Maine, lying within the county of Piscataquis, shall be taken by virtue of this act for the purpose of aiding in the construction of the trunk line of the European and North American Railway; but that all of said lands lying in said county of Piseataquis, shall be and are hereby appropriated under the limitations and restrictions relating to other lands herein granted, and

shall be applied in aid of the construction of a branch of said railway extending to the slate quarries in the valley of the Pleasant river at Brownville, and to the Katahdin Iron works, from any point on the line of said railway between Oldtown and Lincoln, as provided in section two of "an act authorizing the further extension of the European and North American Railway" Feb. 20, 1864, passed at the present session of the legislature.

SECT. 4. All benefits of this act shall be forfeited by said European and North American Railway Company, upon the appropriation and use of the proceeds of timber or lands hereby granted to any other purpose than the construction of the main line of said railway or branches into Aroostook and Piscataquis counties.

SECT. 5. This act shall take effect on its approval by the governor.

Approved March 24, 1864.

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## CLXI.

### ACT TO PROMOTE IMMIGRATION AND FACILITATE THE SETTLEMENT OF PUBLIC LANDS, BY THE FIFTIETH LEGISLATURE OF THE STATE OF MAINE.

FEBRUARY 24, 1871.

#### *Sources.*

The attention of the Legislature of the State of Maine had been repeatedly called to the northeastern frontier, especially during the Civil War which diverted "numbers of the industrious and valuable men of Maine from peaceful

pursuits of private life to public services, thereby diminishing important departments of mechanical and agricultural employments, the restoration of which would be of incalculable profit." In recognition of the fact that "the strength and prosperity of a state depend immediately upon its population," practical steps were taken to establish a colony of Scandinavians upon the unoccupied lands of the frontier. The success of the colony at New Sweden is well known. Particulars of the first twenty-five years are narrated by William Widgery Thomas "The Story of New Sweden as told at the Quarter Centennial Celebration of the Founding of the Swedish Colony in the Woods of Maine, June 25, 1896" (Portland, 1896).

The legislative enactments which extend through a series of years are here represented by the Act of February 24, 1871, which is reprinted from "Acts and Resolves of the Fiftieth Legislature of the State of Maine" (Augusta, 1871), 157, 158.

*Text.*

*Be it enacted by the Senate and House of Representatives in Legislature assembled,* as follows :

SECT. 1. There shall be a board of immigration in this state, composed of the governor, secretary of state and land agent.

SECT. 2. It shall be the duty of said board to appoint a commissioner of immigration, an agent resident in Sweden, and an agent resident in New Sweden, Maine, and to exercise a general supervision over the expenditure of all moneys appropriated by this act.

SECT. 3. It shall be the duty of said commissioner to collect statistics and other useful information concerning the climate, soil, productions and resources of the state, the amount and location of unsettled lands in Maine, the terms offered by the state to settlers, together with the condition and progress of the colony at New Sweden, and such other information as he may deem proper, and cause the same to be translated into the Swedish language and

distributed in Sweden and the United States in such manner as may be deemed desirable and best calculated to promote the provisions of this act; *provided* the whole amount expended for this purpose shall not exceed the sum of one thousand dollars.

SECT. 4. It shall be the further duty of said commissioner to exercise a general care and oversight over all immigrants coming to Maine, to give them all needful information, to assist them in settling upon the public lands of the state, or obtaining employment within its borders, and to have the special charge of the colony of New Sweden, to the end that its development and prosperity may be promoted in every way consistent with law; and the compensation and entire expenses of said commissioner shall not exceed the sum of twenty-five hundred dollars.

SECT. 5. The first agent provided for in section second of this act shall reside in Gothenburg, Sweden; shall have charge of the printing and of the distribution throughout Sweden of all documents and information to be furnished him by the commissioner, shall use his best endeavors in every lawful way to encourage emigration to Maine, to protect the emigrants from fraud and imposition, and to enable them to embark from Sweden with proper guarantees for their safety and comfort on their passage, and with suitable information to the Swedish colony of our state; and the compensation of said agent shall not exceed the sum of five hundred dollars.

SECT. 6. The second agent provided for in section second of this act shall reside in New Sweden, shall have special charge of the state store-house, stores, tools and all other state property there, shall receive and disburse all state supplies and keep proper accounts and vouchers therefor; and the compensation of said agent shall not exceed the sum of two hundred dollars.

SECT. 7. The agents mentioned in the two preceding sections shall perform their duties under the direction of the commissioner of immigration.

SECT. 8. The board aforesaid may, if in their opinion the circumstances require it, expend amounts not exceeding the following sums for the several purposes hereinafter enumerated: for provisions and tools to be sold the colonists at cost, and for which payment may be taken in labor at one dollar a day on the roads, public building, and other public works, five thousand dollars; for finishing and furnishing the public building at New Sweden, one thousand dollars; for seed, five hundred dollars; for roads, five hundred dollars; for schools and school books, three hundred dollars; for all other purposes to promote the provisions and spirit of this act, five hundred dollars.

SECT. 9. The board aforesaid may cause all immigrants arriving under the provisions of this act to be settled on any of the public lands of the state not otherwise appropriated, and assign to each man over twenty-one years of age, by certificate from the land agent, a lot of one hundred acres of land; and the land agent shall, at the expiration of five years from the date of said assignment, grant each of the persons aforesaid or his heirs at law, a deed of warranty or other valid title of the lot assigned him; *provided*, each of said persons has established his residence on the lot assigned him, has built him a comfortable house thereon, and has cleared not less than fifteen acres of land within the time aforesaid, ten of which shall be laid down to grass; and all said persons shall be exempt from state taxation until January first, in the year of our Lord eighteen hundred and seventy-six.

SECT. 10. The governor is hereby authorized to draw his warrant upon the treasury for any of the sums specified in this act.

SECT. 11. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect when approved, and shall continue in force one year from its approval.

Approved February 24, 1871.

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## CLXII.

### EXTRACTS FROM THE TREATY OF WASHINGTON, BETWEEN THE UNITED STATES AND GREAT BRITAIN.

MAY 8, 1871.

#### *Sources.*

The treaty of Washington, May 8, 1871, not only arranged for a court of arbitration to settle the Alabama claims, but it also made provision for fisheries, navigation and commerce. Because strong protests had been presented by the citizens of Maine against the unequal working of the Reciprocity treaty of 1854, certain clauses of the treaty of 1871 were directly aimed at the regulation of evils developed by the working of earlier treaties. Although articles XVIII., — XXV., XXX., and XXXII. terminated July 1, 1885, in accordance with the provisions of the treaty, they are included because of their relation to important rights of fishing.

The treaty is in "Statutes at Large of the United States of America" (Boston, 1871), XVII., 863-877; and John H. Haswell, compiler, "Treaties and Conventions Concluded Between the United States of America and Other Powers Since July 4, 1776" (Washington, 1889), 478-493. Among other sources it is in Charles Samwer and Jules Hopf, editors, "Nouveau Recueil Général de Traité . . ." (Gottingue, 1875), XX., 698-719; it was also printed by Caleb Cushing, "The Treaty of Washington, Its Negotiation, Execution, and the Discussions Relating

Thereto" (New York, 1873), Appendix, 257-274; and by the same in French, which was the language used by the tribunal, at Geneva, "La Traité de Washington, sa Négociation, sa Mise à Execution, et les Discussions auxquelles il a donné Lieu" (Rouse's Point, 1873; Paris, 1874), Appendix, 349-373.

Extracts from the treaty of Washington, with the proclamation by President Grant, are reprinted in this compilation from "Statutes at Large."

*Text.*

WHEREAS a treaty, between the United States of America and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, concerning the settlement of all causes of difference between the two countries, was concluded and signed at Washington by the high commissioners and plenipotentiaries of the respective governments on the eighth day of May last; which treaty is word for word as follows:—

• • • • • • • • •

[NOTE. Articles I. to XVII, inclusive arrange for a tribunal of arbitration to meet at Geneva in Switzerland; said decision to be final.]

ARTICLE XVIII.

It is agreed by the high contracting parties that, in addition to the liberty secured to the United States fishermen by the convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of her Brittannic Majesty, the liberty, for the term of years mentioned in Article XXXIII. of this treaty, to take fish of every kind, except shell-fish, on the sea coasts and shores, and in the bays, harbors, and creeks, of the provinces of Quebec, Nova Scotia, and New Brunswick,

and the colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

#### ARTICLE XIX.

It is agreed by the high contracting parties that British subjects shall have, in common with the citizens of the United States, the liberty for the term of years mentioned in Article XXXIII. of this treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbors, and creeks of the said sea-coasts and shores of the United States and of the said islands without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries,

and all fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

#### ARTICLE XX.

It is agreed that the places designated by the Commissioners appointed under the first article of the treaty between the United States and Great Britain, concluded at Washington on the 5th of June, 1854, upon the coasts of her Britannic Majesty's dominions and the United States, as places reserved from the common right of fishing under that treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding articles. In case any question should arise between the governments of the United States and of her Britannic Majesty as to the common right of fishing in places not thus designated as reserved, it is agreed that a commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the commission appointed under the said first article of the treaty of the 5th of June, 1854.

#### ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII. of this treaty, fish oil and fish of all kinds (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country, respectively free of duty.

#### ARTICLE XXII.

Inasmuch as it is asserted by the government of her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII. of this treaty are of greater value than those accorded by Articles XIX. and XXI. of this treaty to the subjects of her

Britannic Majesty, and this assertion is not admitted by the government of the United States, it is further agreed that the commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of her Britannic Majesty, as stated in Articles XIX. and XXI. of this treaty, the amount of any compensation which, in their opinion, ought to be paid by the government of the United States to the government of her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII. of this treaty; and that any sum of money which the said commissioners may so award shall be paid by the United States government, in a gross sum, within twelve months after such award shall have been given.

#### ARTICLE XXIII.

The commissioners referred to in the preceding article shall be appointed in the following manner, that is to say: One commissioner shall be named by the President of the United States, one by her Britannic Majesty, and a third by the President of the United States and her Britannic Majesty conjointly; and in case the third commissioner shall not have been so named within a period of three months from the date when this article shall take effect, then the third commissioner shall be named by the representative at London of his Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any commissioner or in the event of any commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case such substitution being calculated from the date of the happening of the vacancy.

The commissioners so named shall meet in the city of Halifax, in the province of Nova Scotia, at the earliest

convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best of their judgment, and according to justice and equity ; and such declaration shall be entered on the record of their proceedings.

Each of the high contracting parties shall also name one person to attend the commission as its agent, to represent it generally in all matters connected with the commission.

#### ARTICLE XXIV.

The proceedings shall be conducted in such order as the commissioners appointed under Articles XXII. and XXIII. of this treaty shall determine. They shall be bound to receive such oral or written testimony as either government may present. If either party shall offer oral testimony, the other party shall have the right of cross-examination, under such rules as the commissioners shall prescribe.

If in the case submitted to the commissioners either party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the commissioners may require.

The case on either side shall be closed within a period of six months from the date of the organization of the commission, and the commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the commissioners under

the circumstances contemplated in Article XXIII. of this treaty.

#### ARTICLE XXV.

The commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary and any other necessary officer or officers to assist them in the transaction of the business to come before them.

Each of the high contracting parties shall pay its own commissioner and agent or counsel; all other expenses shall be defrayed by the two governments in equal moieties.

[Articles XXVI. to XXVIII. relate to rights of navigation.]

#### ARTICLE XXIX.

It is agreed, that, for the term of years mentioned in Article XXXIII. of this treaty, goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been or may, from time to time be specially designated by the President of the United States, and destined for her Britannic Majesty's possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations and conditions for the protection of the revenue as the government of the United States may from time to time prescribe; and under like rules, regulations and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such possessions through the territory of the United States for export from the said ports of the United States.

It is further agreed that, for the like period, goods, wares, or merchandise arriving at any of the ports of her

Britannic Majesty's possessions in North America, and destined for the United States, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the said possessions, under such rules and regulations, and conditions for the protection of the revenue as the governments of the said possessions may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said possessions to other places in the United States, or for export from ports in the said possessions.

#### ARTICLE XXXI.

The government of her Britannic Majesty further engages to urge upon the parliament of the dominion of Canada and the legislature of New Brunswick, that no export duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick. And, in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this treaty, it is agreed that the government of the United States may suspend the right of carrying hereinbefore granted under Article XXX. of this treaty for such period as such export or other duty may be levied.

#### ARTICLE XXXIII.

The foregoing Articles XVIII. to XXV., inclusive, and Article XXX. of this treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the imperial parliament of Great Britain,

by the parliament of Canada, and by the legislature of Prince Edward's Island on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation; and further until the expiration of two years after either of the high contracting parties shall have given notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

ARTICLE XLIII.

The present treaty shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by her Britannic Majesty; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Washington the eighth day of May, in the year of our Lord one thousand eight hundred and seventy-one.

|          |                         |
|----------|-------------------------|
| [ L. S.] | HAMILTON FISH.          |
| [ L. S.] | ROBT. C. SCHENCK.       |
| [ L. S.] | SAMUEL NELSON.          |
| [ L. S.] | EBENEZER ROCKWOOD HOAR. |
| [ L. S.] | GEO. H. WILLIAMS.       |
| [ L. S.] | DEGREY & RIPON.         |
| [ L. S.] | STAFFORD H. NORTHCOTE.  |
| [ L. S.] | EDWD. THORNTON.         |
| [ L. S.] | JOHN A. MACDONALD.      |
| [ L. S.] | MOUNTAGUE BERNARD.      |

And whereas the said treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged in the city of Loudon, on the seventeenth day of June, 1871, by Robert C. Schenck, Envoy Extraordinary and Minister Plenipotentiary of the United States, and Earl Granville, her Majesty's Principal Secretary of State for Foreign Affairs, on the part of their respective governments :

Now, therefore, be it known that I, ULYSSES S. GRANT, President of the United States of America, have caused the said treaty to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fourth day of July,  
in the year of our Lord one thousand eight hundred  
[ SEAL ] and seventy-one, and the Independence of  
the United States the ninety-sixth.

By the President :                           U. S. GRANT.  
HAMILTON FISH, *Secretary of State.*



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